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Situation of human rights in Rwanda

Note by the Secretary-General**

The Secretary-General has the honour to transmit to the members of the General Assembly, pursuant to Economic and Social Council decision 2000/254 of 28 July 2000, the report of the Special Representative of the Commission on Human Rights on the situation of human rights in Rwanda, Michel Moussalli.

* A/55/150.

** In accordance with General Assembly resolution 54/248, sect. C, para. 1, this report is being submitted on 4 August 2000 so as to include as much updated information as possible.

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Report of the Special Representative of the Commission on Human Rights on the situation of human rights in Rwanda

Summary

Pursuant to Commission on Human Rights resolutions 1999/20 of 23 April 1999 and 2000/21 of 18 April 2000, and to his mandate, the Special Representative undertook four missions to Rwanda in 1999 and three in 2000. His mandate is to make recommendations on the situation of human rights in Rwanda, to facilitate the establishment and effective and independent functioning of the National Human Rights Commission and to make recommendations on situations in which technical assistance to the Government of Rwanda in the field of human rights may be appropriate. While the mandate therefore does not request him to monitor human rights in Rwanda, he has offered his observations and recommendations whenever this has seemed important and necessary. His main observations and recommendations can be summarized as follows.

General observations. The Special Representative warmly welcomes Commission resolution 2000/21 on the situation of human rights in Rwanda. This resolution takes into account most of the concerns and recommendations contained in the Special Representative's report to the Commission dated 25 February 2000 (E/CN.4/2000/41). The Special Representative is deeply gratified that Rwanda is stepping out from the shadow of genocide and laying the foundation for the transition to democracy. The Government is also to be commended for its efforts to eradicate ethnic labels and to promote reconciliation. On the other hand, there is not yet a full "culture" of human rights in Rwanda. The regional crisis remains relevant and extremely disturbing because the ongoing conflicts in the region create a deep feeling of insecurity and fear among the population and prevent efforts towards reconciliation and promotion of human rights.

Cooperation between the United Nations and Rwanda. The Special Representative is pleased at the growing support for human rights in Rwanda by the United Nations system. He warmly commends the assistance already provided by the High Commissioner for Human Rights to the Rwandan National Human Rights Commission. He is pleased to report that after intensive discussions in Kigali and in Geneva with the Office of the High Commissioner for Human Rights (OHCHR) and with the National Commissions of Unity and Reconciliation and of Human Rights, projects of technical cooperation and support to the two Commissions have been submitted for approval to the Review Committee of OHCHR. The Special Representative urges OHCHR to approve these projects. He also hopes that the United Nations Development Programme (UNDP) and other United Nations agencies active in Rwanda will make more resources available to enable implementation of some of the recommendations outlined in this report.

Security in north-west Rwanda and the repatriation of refugees. Security improved noticeably in north-west Rwanda in 1999, resulting in a corresponding decline in alleged abuses by the Rwandan armed forces, although incidents of infiltration and related violence occurred in December 1999 and from March 2000. The drought has led to food shortages and even famine in certain areas of the eastern part of the country, provoking internal movements of population. Some 45,000 Rwandan refugees returned from the Democratic Republic of the Congo between

January and the end of May 2000, in addition to the 32,000 who had returned in 1999. Some 60,000 more returnees are expected by the Office of the United Nations High Commissioner for Refugees (UNHCR) later in the year. There are no reports of systematic reprisals or coercion against returnees, but this does not diminish the need for monitoring by Rwandan human rights groups. Some have reported that civilians are being forcibly recruited into the armed forces in the north-west. They also note growing in discipline among local defence forces, which are being formed by communities throughout Rwanda. Also, departures of Rwandans to the United Republic of Tanzania have accelerated recently, rising from about 125 a month in early 2000 to 900 in the month of May.

Civil society and human rights. Civil society is a major focus of the Special Representative's report. Rwanda's human rights groups are recovering from a difficult period. But their needs are great, and they remain totally dependent on foreign donors. The Special Representative suggests that both sides focus on strengthening the monitoring, advocacy and administrative capacities of these groups. The Rwandan authorities could help with practical measures and a supportive legal environment. It is also important that the new law on registration of non-governmental organizations allow them maximum flexibility and independence.

National commissions. The Special Representative is gratified that the National Human Rights Commission (NHRC) is now in a position to serve as the country's institutional focal point for human rights. He supports the Commission's efforts to identify realistic priorities and to cooperate with donors with a view to seeking adequate resources and additional funding. The National Unity and Reconciliation Commission (NURC) is also making great strides. The Special Representative is also pleased to report that the Constitutional Commission entrusted with the preparation of the revision of the Constitution based on extensive consultation in the country has now been established and its 12 members appointed.

Crisis in Rwandan prisons. This year's report devotes considerable attention to detention. It is hard to comprehend that approximately 123,000 detainees are still crowded into jails and communal detention centres (*cachots*) six years into the transition period — many without being charged. After taking over prison administration last year, the Ministry of the Interior has undertaken a series of bold moves to improve prison administration, train prison guards and expand community service by prisoners. The Special Representative regrets that these and other measures have not resulted in a reduction of the detention caseload in 2000. The Special Representative is also greatly concerned by the food crisis in some prisons and the resulting deaths of many prisoners in spite of the relentless support provided by the International Committee of the Red Cross (ICRC). Conditions are worst in the country's 154 *cachots* which are meant to be temporary and so have no services. The Special Representative regrets that the Ministry of the Interior has not been able to fulfil the promise to take over these *cachots*. Overall, conditions remain unacceptable, and the Special Representative urges the authorities to accelerate the release of the elderly, the chronically ill, pregnant women and children. The Special Representative's own findings suggest more releases would be possible if communities were consulted in advance.

The Special Representative is gratified to see a trend towards greater involvement in the *cachots* by international non-governmental organizations. In general, however, governmental donors are still reluctant to get involved. The

Special Representative strongly appeals to donors to review this policy, and to treat prisons as an integral part of Rwanda's overburdened justice system. Otherwise, they will remain a highly visible symbol of abuse and a barrier to reconciliation.

Justice system — *gacaca*. In an effort to speed up trials, accelerate releases, identify *génocidaires* still at large and allow the whole population of Rwanda to participate in a judicial process which will remove impunity and promote reconciliation, the authorities will shortly institute a system based on traditional justice in the Rwandan communities, known as *gacaca*. Trials are expected to start by the end of the year, but that may be optimistic. The Special Representative applauds the boldness of this proposal. At the same time, he notes that concerns have been raised about the logistics of *gacaca*, as well as its conformity with international legal standards. The Special Representative would argue that much can be done to minimize the risks. He recommends, in particular, that *gacaca* be launched in a gradual manner so as to test the practicalities. Such a gesture, however, would have to have substantial support from donors, lest their doubts become reality. The Special Representative hopes that international support for *gacaca* will be coordinated and discussed in the context of justice as a whole.

Reconciliation. Rwandans now accept that reconciliation must be a national goal in its own right, and with this in mind the Government last year established NURC. The Commission has quickly made its mark and carried out a nationwide dialogue at the grass-roots level, as well as a variety of innovative activities, and the Special Representative appeals to donors to support its work. He applauds Rwandans of all backgrounds for their heroic efforts in putting the past behind them and learning to live together.

Helping survivors. There is a strong moral and practical argument for helping the survivors of genocide in Rwanda, and the Special Representative is distressed to report that many feel abandoned by the international community. He appeals for more imagination, and assistance, from donors. One possibility might be a new fund to provide legal restitution for civil claimants in genocide cases. Another could be funding survivors' groups to compile the names of those who died — an essential form of memorialization, to achieve truth, acknowledgement, and healing. He also supports the kind of initiative in which prisoners are released to perform community service. These acts of penance promote reconciliation as well as the physical well-being of the prisoners.

Social and economic rights: children. Rwanda's children suffered terribly under the genocide, and those who survived still bear the scars. But it is also time to start looking beyond genocide and understand the wider needs of Rwanda's children — those orphaned by HIV/AIDS; those victims of sexual violence; and those working or begging in the streets. The needs of these children can be viewed in terms of protection and child rights, which highlights the value of the Convention on the Rights of the Child. Rwanda ratified the Convention in 1991, but is five years behind in submitting a second report on its implementation of the Convention. the United Nations Children's Fund (UNICEF) is urging the Government to undertake this important task. UNICEF is also greatly concerned by the fact that the education system in Rwanda and schools in particular, are lacking essential and basic resources. Four hundred thousand schoolaged children were thus not able to go to school in 1999. UNICEF urges the Government to create a national task force on children to better coordinate all activities and resources for children of the various government

departments. The Special Representative was very pleased to note the personal interest of the President of the Republic in this matter.

Social and economic rights: villagization. Rwanda has gone through a controversial debate on land and settlement. There is growing pressure on the land in Rwanda, and the Government argues that regrouping Rwandans in village settlements will better facilitate their access to basic services. Out of these different elements came an ambitious policy of collective resettlements known as *imidugudu*, or villagization. Concern has been expressed regarding possible coercion. The Special Representative's mission was able to visit three villages in different parts of the country. The mission found that while some coercion probably had occurred, the larger problem was a lack of services. Many settlers would happily take up the offer of a new house if proper services were ensured in advance. He therefore encourages the Government to establish a joint programme with donors to improve services in existing villages and develop new pilot sites throughout the country. The choice of location could be left to the newly elected development councils. This could be more easily done now, as the debate seems to have shifted from villagization to *viabilisation* (sustainability).

Peace, security, economic development and human rights. These are fundamental and interlinked requirements of any human society. No culture of human rights can really take root in any country, in any region, without ensuring that peace, security and economic development prevail for all populations. This is particularly relevant in post-genocide Rwanda. It is therefore of the utmost importance that a comprehensive regional solution is found to the present conflicts affecting the countries in the Great Lakes region of Africa. The Special Representative appeals to all the countries in the region, to the Organization of African Unity (OAU) and to the United Nations to use all possible means to ensure that a lasting and comprehensive peace is agreed upon by all the affected countries, and that all the populations in the area are provided with security and with appropriate means to ensure their economic development and prosperity. In this regard, the Special Representative warmly welcomes the recent report submitted on 29 May 2000 to the Secretary General of the OAU by the OAU International Panel of Eminent Personalities. The report contains most appropriate and essential recommendations regarding the promotion of peace, security, economic development and human rights in the Great Lakes region of Africa. He very much hopes that all relevant authorities in Africa and in the United Nations will respond positively and concretely to all these recommendations.

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I. Introduction

1. At its fifty-sixth session, the Commission on Human Rights commended the Special Representative on the situation of human rights in Rwanda for his work and decided to extend his mandate for a further year.[1] It also requested him to report to the General Assembly at its fifty-fifth session and to the Commission at its fifty-seventh session.[2] In the same resolution, the Commission welcomed the cooperation and assistance extended by the Government of Rwanda to the Special Representative; took note with interest of the efforts of the Government of Rwanda, supported by the Special Representative, to institute the *gacaca* system of justice based on traditional justice in Rwanda with the aim of speeding up the administration of justice while achieving popular participation in the judicial process and thereby promoting national reconciliation; commended the Government of Rwanda on the establishment of the National Human Rights Commission and the support provided for its work; expressed its appreciation to the members of that Commission for the round table organized with the collaboration the United Nations High Commissioner for Human Rights and the Government and the assistance of the Special Representative and the international community, which enabled the Commission to develop a plan of action on human rights in Rwanda; welcomed the commitment of the Government of Rwanda to promoting national unity and reconciliation and commended the establishment of the National Unity and Reconciliation Commission and urged that international support be provided to enable the Commission to achieve its objectives; called for close regular consultation between the Special Representative and the Government of Rwanda, the National Human Rights Commission and all relevant national institutions. The present report, submitted in accordance with Commission resolution 2000/21 and Economic and Social Council decision 2000/254, is the seventh submitted by the Special Representative pursuant to his mandate.

2. It is the view of the Special Representative that Rwanda is a complex country owing to its particular history, its experience with massacres and relatively recent genocide and a unique post-genocide situation in terms of the political configuration and socio-economic situation in the country; that while in all circumstances post-crisis recovery, reconstruction and reconciliation constitute an extremely difficult challenge. This is even more true in the special circumstances of Rwanda, which is one of the poorest countries in the world; and that the need for objectivity, understanding of the constraints and limitations on all parties, and a constructive spirit is therefore even greater in this case.

II. Missions of the Special Representative

3. In conformity with the requirements of his mandate and in light of the evolution of the human rights situation in the country, the Special Representative and his team carried out three missions to Rwanda in the year 2000. The first one was in January, the second in March, and the third in June. The Special Representative was accompanied on each mission by a special assistant and by the Desk Officer for Rwanda from the Office of the United Nations High Commissioner for Human Rights (OHCHR). The support and collaboration provided to him by the Office of the High Commissioner in this and other respects is highly appreciated.

4. The Special Representative is also deeply grateful to the Government of the United Kingdom of Great Britain and Northern Ireland for its support to his mandate, which enabled him in particular to send special assistants to Rwanda. He also wishes to express his thanks to the Acting Resident Representative of the United Nations Development Programme (UNDP) in Rwanda and to the United Nations Interim Resident Coordinator (who is the representative of the Food and Agriculture Organization of the United Nations (FAO)), as well as to all the heads of United Nations agencies and UNDP staff in Rwanda, for the most valuable support they extended to him and his team on all occasions.

5. With a view to the preparation of this report, the Special Representative and his team held consultations with a great variety of persons from Government, United Nations and other international organizations, diplomatic missions, and national and international civil society in Rwanda. They included the President of the Republic, the Vice-President, the Prime Minister, two successive Presidents of the Transitional National Assembly, the President of the Supreme Court, the Minister for Foreign Affairs, the Minister of Justice and Institutional Relations and the Secretary-General of the Ministry, the Minister of Gender and Women in

Development, the Minister of State in the Office of the President, the Minister of Social Affairs, the Special Adviser to the Vice-President, the Minister of Internal Affairs and the Secretary-General of the Ministry, the Attorney General, the Military Prosecutor, the Chairman and members of the National Human Rights Commission, the Chairman and the Executive Secretary of the National Unity and Reconciliation Commission, the President of the Rwandan Bar Association, the Rector of the National University of Rwanda, the leaders of local and international human rights and related non-governmental organizations (especially women's non-governmental organizations), including the Committee of Human Rights Leagues and Associations (CLADHO), the League for the Promotion and Defence of Human Rights in Rwanda (LIPRODHOR), the *Association rwandaise pour la défense des droits de l'homme* (ARDHO), the *Association des volontaires pour la paix* (AVP), the Rwandan Association for the Defence of Human Rights and Freedoms (ADL), *Kanyarwanda* and the League for the Rights of People in the Great Lakes Region (LDGL), the chief of mission and representatives of *Avocats sans frontières* (Lawyers without Borders). The Special Representative also held a press conference and exchanged views with members of the Rwandan media in Kigali during his last visit.

6. The Special Representative and the members of his team also travelled outside the capital, Kigali. They met with officials and refugee returnees in the north-western prefectures of Ruhengeri and Gisenyi. They visited new settlements (*imidugudu*) in Kibungo and Umutara prefectures, three prisons in the prefectures of Butare, Gitarama and Kigali Rural, the Gitagata detention centre for children, and several communal detention centres (*cachots*), the most recent being Gitarama. They also met with senior staff of the Centre for Conflict Management of the Rwanda National University, Butare.

III. General observations of the Special Representative

7. The mandate of the Special Representative is to make recommendations, not to carry out monitoring. At the same time, as several of his interlocutors have correctly pointed out, one cannot make recommendations without undertaking a modicum of effective and reliable fact-finding. Lacking both the mandate and the means to do exhaustive or scientific fact-finding, the Special Representative relies heavily on information and reflections offered by all the stakeholders in Rwanda, as well as on reports published by several of them. For this contribution, the Special Representative is deeply grateful to all his sources.

The evolving context of human rights in Rwanda

8. In his last report to the Commission on Human Rights, the Special Representative characterized the period covered by that report as "a time of transition", one in which Rwanda was growing in confidence and laying the basis for a democratic society.[3] The situation in the period under review is a mixed one. While the Transitional National Assembly was continued for an additional four years, efforts were continuing on another level in the direction of promoting a democratic society. The local elections which took place during that period, under conditions somewhat short of conventional notions of democratic elections, nevertheless furthered the Government's professed objectives of popular participation and reconciliation by bringing people together to line up behind candidates of their choice without reference to ethnicity. The election of women candidates to membership of the local women's committees further advanced the objective of participation of all sectors of society to public debate and decision-making at the grass-roots level.

9. In the period under review, preparations are being made for new elections by secret ballot on the basis of voter registration lists, thereby meeting the doubts expressed about the appropriateness of the earlier electoral exercises. A Constitutional Commission has been established with the objective of reforming the constitutional system of the country, while a decentralization policy is being promoted "to ensure political, economic, social, managerial/administrative and technical empowerment of local populations to fight poverty by participating in planning and management of their development process".[4] The Government of Rwanda is still professing its commitment to the ideals of participatory democracy, human rights, reconciliation and sustainable development. This commitment shows in the continuing moral and material support accorded to the

National Human Rights Commission and the National Unity and Reconciliation Commission, both of which are working hard to establish themselves on firm foundations and are already having an impact in their respective mandate areas. Civil society organizations are thriving, with women's organizations showing a particular vitality.

10. At the same time, some tensions, concerns and disquiet have appeared in recent times in the population at large, as reported to the Special Representative by civil society organizations and other stakeholders. They are reportedly due to the insufficiently explained personnel changes at or near the top of the political hierarchy, some apparently isolated and unexplained cases of assassinations of high-level officials, some recent incidents of infiltration across the border with the Democratic Republic of the Congo resulting in a number of deaths in border communities, the continued involvement of Rwanda in the Congo crisis and its cost to the country, in particular the recent flare-up of fighting between Rwandan and Ugandan troops in and around Kisangani in the Congo. To make matters worse, a drought has created severe food shortages in the eastern part of the country, and even famine in some areas, resulting in internal displacement of populations in search of food. The resulting difficulties are in turn related to and reinforced by the weakened economic situation of the country, the extent of the grip of poverty on large portions of the population and the increased fragility of medium and small enterprises in the current economic climate, according to information provided to the Special Representative. Another source of malaise reported to the Special Representative is the recent awareness of significant numbers of cases of sexual abuse of children of both sexes, especially young girls, in some cases in the belief that having sex with a young girl will cure HIV/AIDS.

Democracy and the future of human rights in Rwanda

11. The Government of Rwanda and all other sectors in the country are aware that without democracy and the rule of law there is no future for human rights, peace, or reconciliation in Rwanda. They are aware in particular that there will have to be at some point in the future an elected National Assembly, which is not yet the case under the transitional arrangement; and a directly or indirectly elected head of State and head of Government. At present, those who govern the country base their legitimacy on their respect for and implementation of all aspects of the Basic Charter of Rwanda (which includes the Constitution of 10 June 1991 as amended and completed, the Arusha Peace Accords of 4 August 1993, and the Protocol Agreement between the political forces). They are seen to be totally dedicated to the welfare of the country, close to the people of Rwanda and attentive to their needs. The measures taken against specific officials accused of corruption and the practice of frequent visits up-country for grass-roots consultations are seen as important means of achieving these objectives.

Justice and its enforcement

12. An area which has remained consistently dismal in post-genocide Rwanda is that of detention.[5] In Rwanda, partly because those who were meant to be exterminated actually won the war, which makes this country's post-genocide experience so profoundly unique, and partly because the mass nature of the genocide in terms of the participation of massive numbers of ordinary citizens, including neighbours and even husbands and fathers in mixed marriages, the victors went for a maximalist approach to justice, arresting not just the leaders, planners, instigators and main implementers, but everybody suspected of any participation in the genocide of Tutsis or the massacres of moderate Hutus.

13. The resulting mass detainee population, which at this reporting stands at roughly 123,000 persons, is quite beyond the capacity of a country as poor and under-equipped as Rwanda to manage properly and with due respect to the human rights requirements in the treatment of prisoners, or even basic rules of hygiene and nutrition, without massive international assistance, which has not been forthcoming to a sufficient extent.

14. In response to the shameful situation in the prisons and especially in the communal *cachots*, and to the prospect that it would take 200 years (some say as much as 400 years) to bring everyone to trial, the Government of Rwanda has experimented with a variety of innovative approaches, including group trials and the release of the old, the terminally ill, the very young and those without an adequate file. These initiatives have been implemented with uneven

consistency or thoroughness, but have had some success in speeding up the treatment of this huge caseload, a success that has been documented in some prefectures.[6] Nevertheless, the improvements have not been enough to reduce sufficiently the enormous size of the caseload, which is the principal cause of the deplorable conditions of detention, not only of genocide detainees, but of common law prisoners as well, in Rwanda.

15. It is to the credit of the Rwandan authorities that in this, as in other areas, they do not hesitate to innovate and to try new approaches when it appears that the one at hand is not working at all or not adequately. The current effort to institute *gacaca* jurisdictions alongside the conventional ones must be seen in this light. The approach here is to borrow a traditional method of dispute settlement, which over the years had fallen into disuse, to adapt it to the current needs, and to utilize it to achieve justice more rapidly, thereby hopefully reducing the caseload swiftly, while at the same time promoting grass-roots popular participation, a full airing and acknowledgement of the facts, healing, and reconciliation. At this writing, the draft *gacaca* bill is proceeding and the legislative leaders have promised to finalize the process before the end of this year. While the *gacaca* project is not without its critics, and some of its implications and possible unwanted consequences remain to be worked out, it has garnered support in many quarters, including among the detainees themselves, though some of them blame, apparently quite correctly, that waiting for it has delayed their release from detention.

Objective of ending the culture of impunity

16. One of the consequences of massively promoting the *gacaca* and all the sensitization that goes with the campaigns for justice and against the sexual abuse of children and women, and the very large presence of the detention system, warts and all, may be to inculcate in the national consciousness the notion that killing or otherwise physically harming people is not supposed to go unpunished. With quite a few of the detainees going to and from work outside the prisons in their starched pink uniforms, and with the many families which have to scrimp and run around to provide food for their otherwise insufficiently fed loved ones in detention, especially those in the communal *cachots* for the upkeep of whom no government budget is provided, not to mention the enormous slice of the national budget (about 5 per cent) nevertheless allocated to the prisons by this very poor country, it is possible that this message is sinking in. This remains to be systematically investigated, however. It may be a worthy subject of research for the Rwanda National University's Centre for Conflict Management. Such research could also extend to the area of military justice where Rwanda's Military Prosecutor is of the firm opinion that the era of the culture of impunity is now over in the army, as everyone knows what to expect when he or she commits a crime.

Regional context

17. The impunity issue itself has acquired an important international dimension since 1994 when the perpetrators of the Rwandan genocide fled the country in front of the advancing forces of the Rwandan Patriotic Army (RPA) in order to escape retribution and in the process forced or induced about 1 million members of the Hutu population to flee with them into the Congo and elsewhere and serve as human shields for them. The immediate effect of this development was to expand the crisis into the eastern part of the former Zaire by placing near the western borders of Rwanda tens of thousands of former soldiers of the *Forces armées rwandaises* and Interahamwe militiamen, bent upon invading Rwanda, overthrowing the Rwandan Patriotic Front (RPF) regime there and finishing the genocide.

18. As these armed contingents continued to keep the refugees hostage in the refugee camps and the international community was not willing to take the action necessary to disarm and dislodge these armed *génocidaires*, the RPA itself invaded eastern Congo and emptied the camps. In the process, not only did the rebels flee further into the Congo, but many thousands of Hutu civilians were killed. A recent well-balanced, meticulous and all-round very critical report by the International Panel of Eminent Personalities appointed by the Organization of African Unity (OAU) to investigate the 1994 genocide in Rwanda raised again the question of the responsibilities of all parties in the massacres that took place.

19. The recent meeting between President Kabila and President Kagame in the midst of the now arrested

fighting between Rwandan and Ugandan forces may presage a new shifting of alliances. It remains, however, that the future of human rights in Rwanda is inextricably linked with the regional context, in particular with the future of developments in the eastern part of the Democratic Republic of the Congo. The primacy of human rights in Rwanda cannot be achieved, let alone sustained, without a solution to this regional problem.

Relations with the international community

20. The Government of Rwanda is keenly aware that, given the paucity of its resources, it needs the support of the international community to achieve its objectives. It is also keenly aware and resentful of the fact that the international community could have prevented the genocide, or at least stopped it early in its course, but did not. As a result, while welcoming and actively seeking international assistance, the Government of Rwanda maintains a strong sense of self-reliance when it comes to what it perceives as its fundamental national, especially security, interests. This of course goes hand in hand with a strong propensity to take things into its own hands on security matters, often taking the international community by surprise. This has often resulted in disagreement or misunderstanding between the Government of Rwanda and members of the international community, especially, though not exclusively, on the Congo issue. Quite predictably, the recent report of the Secretary-General on the role of Rwanda and Uganda in the Congo crisis, and especially in the destruction of Kisangani and the massive violation of the human rights of its citizens, led to much distress and highly charged comments in and out of government circles about the United Nations, the Security Council, the Secretary-General, and the United Nations Observer Mission in the Democratic Republic of the Congo (MONUC). It was significant, however, that at least one senior Rwandan government official correctly got the point and commented that at least the events in New York showed that the United Nations had finally learned its lesson about the need to react firmly to conflict situations. In any event, while the international community cannot possibly condone everything that the Government of Rwanda does, it does have a strong obligation to support it in its genuine efforts to overcome the disastrous consequences of the genocide and help it prepare a future of genuine peace, reconciliation, democracy and sustainable development. This obligation is not only for the sake of Rwanda, but for the sake of humanity.

IV. Cooperation with the Office of the United Nations High Commissioner for Human Rights

21. Relations between the Government of Rwanda and the Office of the United Nations High Commissioner for Human Rights (OHCHR) have continued to improve and are well on their way to a new level of collaboration that will fulfil the wishes and objectives of both sides as expressed when they parted ways on monitoring in 1998. Indeed, capacity-building, technical cooperation, education and training have become normal, uncontroversial elements of the relationship. In this respect, OHCHR sponsored the training of the members of the National Human Rights Commission at the International Institute of Human Rights in Strasbourg and the holding of an international human rights round table in Kigali in 1999.

22. At the urging of the Special Representative, both this Commission and the National Unity and Reconciliation Commission submitted formal requests for assistance and projects to that effect to OHCHR. The Special Representative is pleased to report that after intensive discussions in Kigali and in Geneva with OHCHR and with the two National Commissions, projects of technical cooperation and support to the two Commissions have been submitted for approval to OHCHR. The Special Representative is most grateful for the assistance provided in the elaboration of these projects by an expert consultant seconded by the Uganda Human Rights Commission. The Special Representative very much hopes that these projects will be approved by OHCHR and that these two Commissions will thus be able to benefit from the technical cooperation expert assistance of OHCHR.

23. The Special Representative wishes to reiterate that Rwanda can well benefit from the implementation of the 1998 global memorandum of understanding between OHCHR and UNDP. In this respect, the Special Representative is pleased that the human resources of UNDP's Justice and Human Rights Unit have been increased since his last report. He trusts that this strength will at least be maintained over time, as

the Unit is called upon to play an important role in capacity-building for these two commissions and in collaboration with OHCHR.

V. Security in Kigali and the prefectures

Security and human rights in Rwanda

24. The 1948 Universal Declaration of Human Rights establishes a straightforward connection between security and human rights in its article 3 which provides that "everyone has the right to life, liberty and security of person". No prescription could be more appropriate to the case of Rwanda. For it is in the wake of massive violations of the right to life, liberty and the security of person that the attention of the international community came to be focused on the case of Rwanda: the right to life for the victims and survivors of the genocide and massacres, the right to liberty for those forced to flee with the *génocidaires*, and right to security for both groups. Of course, human rights belong to everyone, including those suspected or accused of crimes. Thus, in post-genocide Rwanda, the genocide detainees are entitled to the protection of their right to life, liberty (if not proven guilty), and security of person. The extent to which security has been achieved in Rwanda is an important yardstick of the protection of human rights in that country.

Security in Kigali and its environs

25. The security situation in Kigali had improved considerably since 1998 and the city is generally considered quite safe, certainly safer than many other capitals around the world. However, aside from break-ins, armed robberies, thefts of vehicles and occasional shootings, some incidents of violence, including some resulting in death, were reported beginning in March 2000, including attacks on United Nations staff. These included, according to reports received by the United Nations in Rwanda, the murder of a United Nations international staff member in the Remera area on the night of 4 March; the assassination on 5 March, reportedly by armed and uniformed men associated with the Adviser to the President of the Republic; and the shooting death of an army officer on the night of 19 March at a roadblock set up by unknown gunmen in the Kanombe area on the main road to Kibungo. No murders were reported afterwards for Kigali itself through the middle of June, except for the fatal shooting on 10 June, apparently by robbers, of a Spanish priest in Mugina commune of Gitarama prefecture, near the south-western suburbs of Kigali Ville prefecture.

26. A human rights report for the period December 1999 to April 2000 by the *Association rwandaise pour la défense des droits de la personne et des libertés publiques* (ADL) recorded additional cases of murder in the Kigali area in the period indicated, including of a man and a woman on the night of 26 February, a junior army officer on 13 March, a businessman on 3 April, another man on the same day, still another man on 4 April, this time in Kigali Rural, and finally another man in Kigali Ville on the night of 20 April.[7] The above were apparently isolated incidents. However, the President of the Transitional National Assembly had resigned under pressure on 7 January 2000 and left the country soon thereafter. The Prime Minister resigned on 28 February, also under pressure from the Transitional National Assembly. On 23 March the President of the Republic resigned as well under difficult circumstances. The brother of the assassinated Adviser to that same President, himself a physician and prominent human rights and genocide survivor leader, is the person whose departure from the country the Government is alleged to have attempted to prevent (a claim denied by the Government). All of this led to negative speculations, which the Government of Rwanda has sought to counter in its replies to the recent Human Rights Watch and Amnesty International reports, as mentioned below.

27. Gitarama prefecture, which is contiguous to both Kigali Ville and Kigali Rural prefectures, was the scene of a series of worrisome incidents regarding security of the person and reported by ADL.

Security in the border areas, especially in north-west Rwanda

28. Whereas successful Rwandan military intervention in the eastern part of the Democratic Republic of the Congo had resulted during the previous reporting period in a reduction in the number of incursions of armed infiltrators into north-west Rwanda (with the notable exception of the 23 December 1999 attack at Tamira resettlement site, Muturu commune, Gisenyi prefecture, in which 29 persons were killed and 40

wounded), Rwandan advances farther into Congolese territory, and especially the fighting with Ugandan troops, may have had the opposite effect. At least, this is one explanation given for the incidents of infiltration and murder of border village populations that have been reported in recent times. Incidents of infiltration and related violence were reported to the United Nations during four of the months in the period between the first of the year and 16 June 2000.

29. Infiltrators reportedly penetrated Nyungwe Forest in Cyangugu prefecture from 5 to 17 January. Another group allegedly attacked a village in the Volcanoes Park area from 17 to 22 January and looted food items. Infiltrating militiamen were reported to have attacked a Local Defence Forces (LDF) team in Ruhengeri two kilometres on the road to Gisenyi and to have wounded one LDF man and taken away some guns, but there is some confusion about exactly what happened there. Another version claims that the confrontation was between the military and an LDF man. On 5 March five armed infiltrators dressed in Rwandan and Burundi military uniforms reportedly shot dead the chief of Nyaruteja sector, Kigembe commune, Butare prefecture.[8] On 16 May, armed infiltrators, three of whom were identified as ex-FAR soldiers originating from Rubavu commune, reportedly killed three persons in Basa sector, Rubavu commune, Gisenyi prefecture. On 25 May, about 50 infiltrators in military uniforms, some allegedly Mai-Mai soldiers, reportedly attacked a village in Gabiro sector, Rwerere commune, also in Gisenyi prefecture, killing 10 people, including three LDF men whom they had abducted. On 27 May, six armed infiltrators, allegedly sheltering in the house of one of them in Nyamyumba, also in Gisenyi, killed a businessman and wounded an LDF militiaman in the area. In Ruhengeri prefecture on 16 May, armed infiltrators reportedly attacked at night a boarding school in Kidaho commune near Volcanoes Park and killed three children and six LDF men, and wounded three other children. On the same night, also in Ruhengeri, reportedly one civilian and one LDF man were killed in Ruhondo commune.

30. While several of these incidents of infiltrators' attacks led to countermeasures by the Rwandan security forces (indeed, it should be noted that a number of LDF militiamen were reported killed during these raids), they did not provoke the waves of alleged abuses by Rwandan government forces (RPA or LDF) reported in earlier periods. On the other hand, there were reports from Byumba prefecture in March 2000 of LDF men, sometimes drunk, shooting and in two cases killing civilians or regular soldiers, and committing suicide afterwards when cornered. Furthermore, some human rights non-governmental organizations, including Human Rights Watch[9] and Amnesty International,[10] reported cases of killing and abuses of human rights by military and LDF men. It is interesting and instructive that the Government of Rwanda has produced systematic, point-by-point replies to both of these reports to refute the charges therein and disseminated them on the Internet.[11]

31. Aside from Human Rights Watch, various interlocutors, while recognizing the security needs of Rwanda, especially in the north-west border areas, are concerned about the implications and dangerousness of unpaid, otherwise unemployed, armed, ill-educated, and ill-trained local defence forces in a country that has undergone the murderous experience of the Interahamwe. At the very least, they suggest caution and serious training in discipline, human rights and humanitarian law for the LDF members. These views echo the Special Representative's cautionary comments in his most recent report to the Commission on Human Rights (E/CN.4/2000/41).

New types of security concerns

32. The Special Representative has also noted new types of security concerns not previously raised and being expressed now in various quarters. These concerns were discussed at length in both the Human Rights Watch and the Amnesty International reports, as well as other sources. Again, both reports were the subjects of point-by-point and electronically disseminated refutation by the Government of Rwanda, as indicated and referenced above. These concerns relate to the following allegations: the persecution of opponents of the Government, including the members of an opposition group called the King's Army; the silencing of the press; the forced return of persons having fled the country; and the preventing of certain persons from fleeing abroad.

33. On the latter two points, without making any judgement as to the guilt of the persons concerned, or as to the legitimacy of the fear which led them to flee the country, the Special Representative is concerned about the assumption that there is an absolute right for a State of origin to obtain the summary extradition

from another country of any person it deems to be a criminal. This would contravene the principle that a person is innocent until proven guilty, as well as other established norms and principles of international refugee, asylum and extradition law concerning the return of persons who claim to have a well-founded fear of persecution. The only way to ensure due respect for these norms, which apply also, under certain conditions, to deserters and draft evaders, is for the State receiving the extradition request to make a formal determination, which is not possible in a summary extradition process. The Special Representative is quite aware and supportive of the expressed policy of the Government of Rwanda actively to encourage all Rwandans in exile to return to their country. The Government can only be commended for taking such a position, which is not without some risk for its security, but the Special Representative trusts that this objective will always be pursued within the requirements of international law, including international covenants and conventions to which Rwanda is a party.

34. The Special Representative sees significance in the fact that the Government of Rwanda chose to respond to these human rights reports in a direct and factual manner focused on the evidence and using the electronic medium, even while impugning the motives of the reports and their authors. The Special Representative understands that Human Rights Watch is preparing a reply to the Government's response. At this writing, it is not known whether Amnesty International is planning to do the same. This may be developing into a dialogue of sorts. The Special Representative would suggest that this debate be elevated and expanded into a true national dialogue on democracy, human rights, justice and reconciliation. There are plenty of precedents for such an undertaking. At the highest level there were the informal weekend discussions initiated earlier by the President of the Republic, which involved various sectors of Government and civil society and which generated such innovative ideas as the *gacaca* jurisdictions. Various government ministries and the National Unity and Reconciliation Commission have launched broad campaigns of consultation and sensitization of the population on specific subjects of concern to them. The National Human Rights Commission organized in October 1999, in collaboration with the Special Representative and OHCHR, a transnational round table which produced a useful draft plan of action for the newly established Commission.

35. The Special Representative sees the need for a broad-ranging debate on the nature and content of Rwandan democracy. It could be linked to the launching of the incipient Constitutional and Electoral commissions and could generate plans of action and/or guiding principles for them. These two proposed commissions and those on human rights and on national unity and reconciliation should play a leading role in organizing this dialogue. They could do so together with the Centre for Conflict Management of the Rwanda National University (as part of its proposed search for a politico-constitutional model for Rwanda) and the principal human rights and related non-governmental organizations, with the participation of government entities, members of the Transitional National Assembly, the media, and international representation. It could take the form of one overall conference or several round tables on specific themes selected in a consensual process. It would both examine and evaluate current administrative, electoral, legislative, political and related practices, and make concrete proposals and recommendations for the future.

Human rights and continuing humanitarian needs

36. Over the past three and a half years, human rights and humanitarian concerns have fluctuated in the north-west of Rwanda. By the end of 1999 the emergency had receded. In 1998 an estimated 600,000 Rwandans were displaced by fighting in the north-west and moved into camps. Conditions had seriously deteriorated and an international appeal launched by the Office for the Coordination of Humanitarian Affairs (OCHA) had raised $26 million by June 1999. The camps were eventually disbanded and the displaced moved into 183 settlements under the policy of group settlements (*imidugudu*). One government study in June 1999 found that 11 per cent of the population was still suffering from severe malnutrition, with the figure rising to 17 per cent in more remote communes. This was attributed to late planting, damage to health infrastructure from fighting, and separation from land.[12] That prompted an extension of the OCHA appeal in July for a further $19 million.

37. The crisis receded as a result of good harvests and improved security, to such an extent that OCHA recommended that the appeal be suspended. A total of $9.8 million had been provided by donors. At the same

time, OCHA warned that 90,000 people were lacking basic services in Ruhengeri, and 60,000 in Gisenyi. There was controversy over whether the policy of villagization was deepening their vulnerability by depriving them of access to land. A recent report by the ADL called attention to this problem of access to the fields and to basic infrastructure which it said was noted everywhere.[13] The main focus of controversy was, and continues to be in some sectors, the perceived coercive character of the resettlement programme, at least in some of the areas where it was being implemented. At this point, the debate seems, at least to some extent, to have shifted from villagization to sustainability (*viabilisation*). This is discussed further on in this report.

Continuing return of Rwandan refugees

38. Rwanda's long and agonizing refugee crisis may be drawing to a close. The number of Rwandans still in exile has fallen from over 3 million to a fraction of that figure.[14] During 1999, 38,228 returned to Rwanda from neighbouring countries, but the process appears to have accelerated since.

39. The focus of concern remains the eastern Democratic Republic of the Congo and north-west Rwanda. In 1999, 32,087 Rwandans returned from the Democratic Republic of the Congo. According to the Office of the United Nations High Commissioner for Refugees (UNHCR), 45,000 returned from the Democratic Republic of the Congo from January to the end of May 2000 and 60,000 more are expected to repatriate. This is probably an indication that the returnees perceive that there is security in the country, in spite of the incidents of infiltrators' attacks and the accompanying killings in the border areas reported above, especially for December 1999 and March 2000.

40. UNHCR has re-established an office in Goma and is able to collect refugees from several collection points and transport them directly across the Rwandan border to the reception centre of Nkamira, near Gisenyi. Based on interviews with returning refugees, UNHCR officials are confident the process is voluntary. On the other hand, they have received as yet unconfirmed reports that the Interahamwe may be attempting to send in infiltrators mixed in with the returnees.

41. The reception and reintegration of refugees inside Rwanda has also improved steadily, but the process has run into difficulties, owing to lack of resources. The problem is that for the international community the emergency is over, and it is now time for development assistance.[15] As a result, while plenty of funding for reception and reintegration was available during the period of mass repatriation, UNHCR funding for these purposes has been cut to the bare minimum. Yet, according to the UNHCR Representative, the figure of 45,000 returnees between January and May is the largest repatriation figure in Africa so far this year, and the third largest in the world. According to current figures available to UNHCR, there are still over 120,000 Rwandan refugees outside the country and they are returning from various quarters. Furthermore, those arriving from the Democratic Republic of the Congo are more sickly than in the past and their children have had less access to education because these refugees have stayed longer in the jungle. Their needs are therefore greater.

42. The problem is made worse by the disintegration of the administrative structure created by UNHCR and UNDP, known as the Joint Reintegration Programming Unit (JRPU), to bridge the gap between emergency and development and thereby facilitate the reintegration of the refugees. The JRPU was set up in 1995 by UNHCR and UNDP, with the participation of the World Food Programme (WFP). As it is now thought that the era of development has arrived, neither UNHCR nor UNDP is in a position to provide funding and the JRPU staff have returned to their respective organizations since the end of March 2000. For UNHCR, UNDP is supposed to take over where UNHCR leaves off. For UNDP, these returnees are not yet settled and they are therefore UNHCR's responsibility. The danger is that if reintegration assistance stops completely, repatriation itself may stop as a result. The continuing presence of the Rwandan refugees in the Democratic Republic of the Congo and elsewhere is a burden which will continue to weigh heavily on the relations between Rwanda and the countries concerned. It will also continue to be an obstacle to reconciliation and the progress of human rights in Rwanda. The Special Representative therefore urges the international community to provide adequate funding for the reintegration of the Rwandan returnees, and urges UNHCR and UNDP to revive the JRPU or otherwise agree on some alternative administrative measures that

will facilitate the coordination of much needed assistance to the reintegration of the returnees.

43. There remain other refugee issues in Rwanda. There were as of the last reporting period some 32,000 persons from Masisi, Democratic Republic of the Congo, in Rwanda, and although some are returning without UNHCR supervision, conditions did not yet allow them to return to their homes. This situation was probably complicated by the fighting between Rwandan and Ugandan forces around Kisangani, which had stopped as of this writing. There is also movement across Rwanda's border with the United Republic of Tanzania, to the east. According to UNHCR, Rwandans are still reportedly leaving their country for Tanzania, while refugees in Tanzania are reluctant to return. The movement to Tanzania is, in fact, reported by UNHCR to have accelerated from about 125 persons a month earlier this year to 900 in May. This may be due partly to the drought which is also causing some population displacement inside Rwanda in the eastern part of the country. Strangely, it is also being reported that some of those fleeing claim to be afraid of the coming of the *gacaca* jurisdictions for the lower categories of genocide trials.

44. Also worrisome are renewed reports by aid workers (such reports had been made previously, in 1994, 1995 and 1998) of bodies seen floating in the Akajera River, near the confluence with the Ngara River. Fourteen bodies were reported sighted as at 20 June. The Akajera River runs between Rwanda and Tanzania and Burundi. When asked by UNHCR, Rwandan government officials reportedly responded that the bodies may have come from Burundi or from Burundi refugee camps in the area. The matter should be investigated and the identity and provenance of these bodies, and the cause of death, elucidated.

VI. Building democracy

Progress in local elections

45. The building of democracy, in Rwanda as elsewhere, is inseparable from the fundamental objective of promoting reconciliation and protecting human rights. When the five-year transitional period for recovery from genocide expired on 19 July 1999, it was extended by the Government of Rwanda for another four years on the ground that more time was needed to promote reconciliation and complete the drafting of a new constitution. This will provide the opportunity for more scrutiny of the process of transition as well.

46. One important benchmark has already been achieved, with the holding of elections for local Executive Committees in March 1999; 158,864 Committee members were elected at the cell and sector levels.[16] They are now responsible for matters relating to education, health, social affairs, gender, youth and culture, development, security, information and finance.[17] An unofficial international observation team under UNDP leadership was impressed by the logistical achievement of organizing elections of this magnitude in less than two months. The selection methods for the March elections were rather unusual. Candidates were determined eligible on the basis of their education and general standing in the community. There were no political party affiliations, and no campaigning. Each candidate had two to three minutes to speak, and voters lined up behind the candidate of their choice. According to an informal UNDP estimate, the turnout was between 80 and 90 per cent. Often voters waited in line for hours while votes were counted.

47. The involvement of women candidates deserves particular attention. In Musambira commune in Gitarama prefecture, the Special Representative's mission met with the leaders of a women's organization known as COCOF (Women's Consultative Committee), which has 2,055 individual members several of whom stood successfully for elections. This resulted in a significantly higher number of women Executive Committee members than the national average.

48. The Special Representative also commends the efforts of the Government, supported by UNDP's Governance Unit, to provide post-election education and training for elected representatives. The local committees will evolve into important partners of aid agencies. Lack of funds, partly due to the speed with which the election was organized and implemented, prevented a greater effort, such as the provision of technical training to the elected officials. UNDP was nevertheless able to publish and widely disseminate (200,000 copies) a booklet on the functions and responsibilities of newly elected officials, which is also used as a training tool. A programme of assistance was also developed by UNDP to be implemented at the level of the prefectures.

49. Elections at communal level are now scheduled for October 2000. The Special Representative was gratified to hear that political parties and campaigning will apparently be permitted and that the ballot will be secret. This would constitute an important step forward on the road to parliamentary elections in the year 2003. A draft bill on communal elections is presently under consideration.[18] An Electoral Commission is to be set up whose President, the former Prefect of Gitarama, has already been appointed. These elections are to be coordinated by UNDP which will provide technical assistance, with funding provided by the Governments of Germany ($100,000 for ballot boxes), the Netherlands ($2 million for a project on elections and post-elections training, $700,000 of which for the former), Switzerland ($200,000 for training, and more funds for the elections process), USAID ($200,000 to $300,000, depending on the timing), the United Kingdom of Great Britain and Northern Ireland and Sweden (amounts to be determined). Apparently, the European Union's approval cycle is too long to enable it to participate in funding these elections. These communal elections are linked with a decentralization policy project developed by UNDP in collaboration with the Ministry of Local Government and Social Affairs and approved for implementation by the Transitional National Assembly.[19] The Special Representative welcomes the prospect of further electoral development in Rwanda, the plans for decentralization and devolution with a view to promoting and enabling more grass-roots participation in public affairs, the support of donor countries and organizations for these objectives, and the key role of UNDP and its Governance Unit in making all this possible. The Special Representative views these developments as necessary steps on the road to prefectural and national elections and to the establishment of true democracy in Rwanda.

Parliamentary outreach and oversight

50. The advent of a freely elected National Assembly is an important objective in the latter respect. Meanwhile, in the past year and a half the Transitional National Assembly has asserted itself as an independent body, determined to exercise oversight over Government. It established a Commission on Corruption, which focused considerable attention on this problem and the need to eradicate it. The Transitional National Assembly rigorously questioned ministers during preparation of the national budget. It initiated several important bills, such as the one on sexual abuse of children, and redrafted others. In recent times, the Transitional National Assembly has adopted, is considering, or is about to consider a variety of legislative measures of crucial importance for the future of democracy, peace and development in Rwanda. Aside from the draft bill on sexual abuse of children, they include bills on land tenure, the media, the prisons, police reform, *gacaca*, women's right to inheritance, the now operating National Human Rights Commission and National Unity and Reconciliation Commission, a Constitutional Commission, an Electoral Commission, local elections, non-profit-making associations, education reform and reparations to genocide survivors.

51. Equally relevant in this respect is the emphasis of the members of the committees of the Assembly on visiting and listening to the grass roots. The Assembly's National Unity, Reconciliation and Human Rights Committee, in particular, has visited many parts of the country, meeting with *bourgmestres*, communal councils and other local authorities, as well as ordinary people, in order to collect information and hear the views of the local people on the main issues of concern to them. Nine deputies sit on this committee.[20] Its Chairman is from the human rights community. The Special Representative is pleased to have met twice with the Chairman and several of his colleagues during the Special Representative's most recent visit to Rwanda (16-26 June 2000) and to have received extensive briefings on the activities of the Committee. In these and earlier meetings with the Special Representative the Chairman expressed his commitment to supporting human rights groups, visiting new settlements and cooperating with the National Human Rights Commission and the National Unity and Reconciliation Commission.

52. During this same June visit to Rwanda, the Special Representative met with the new President of the Transitional National Assembly and members of its parliamentary committees. He is gratified that the President expressed a strong commitment to promoting human rights, thereby continuing the trend set by his predecessor. The President briefed the Special Representative on the progress of various legislative initiatives. In particular, the President informed him that the project for the establishment of a Constitutional Commission was progressing well.[21] The Assembly

had already selected the 12 members out of a list of 15 submitted by the Government and it was expected that the Commission would be in place by the first week of July 2000. The *Conseil national de la Magistrature* had already given its opinion on the *gacaca* draft bill and the Chief of the *Gacaca* Department of the Supreme Court had already been appointed. The President's expectation was that as soon as the Government submitted the project, quick action would be taken by the Assembly, bearing in mind that the technical aspects would require a lot of attention.

Cooperation with the Inter-Parliamentary Union

53. The Special Representative also warmly commends the willingness of both the President of the Transitional National Assembly and the Secretary-General of the Inter-Parliamentary Union (IPU) to develop fruitful cooperation between the two institutions. Indeed, following a friendly meeting between the Special Representative and the Secretary-General of the IPU in Geneva, a representative of the IPU visited the Transitional National Assembly and the Assembly's National Unity, Reconciliation and Human Rights Committee in Kigali in June to examine a framework for cooperation. The IPU, with the support of OHCHR in Geneva, is now developing a training and cooperation programme for this committee. The Special Representative strongly encourages both the IPU and OHCHR to provide all necessary resources and technical expertise to this initiative.

VII. Civil society and human rights

Civil society in action

54. Civil society plays an essential role in the promotion of human rights. It need not even take the form of organizations. What is needed, first and foremost, is a spirit of independence, and a determination to make a difference. The Special Representative's mission met many Rwandans who fall into this category. He recalls the chemist in Gisenyi who saw street children sleeping outside her pharmacy and raised donations to open a home (Avorwad). Almost all the children have since been reunited with their parents.[22]

55. The Special Representative was also impressed by the Association of Rwandan Journalists which hired a lawyer when one of their members was jailed for accusing a high official of corruption. He applauds the persistence of the survivors of genocide, whose organization, IBUKA, has a reputation for outspoken advocacy, and of women's initiatives such as AVEGA (for widows of genocide), PRO-FEMMES and ASOFERWA (the Association of Rwandan Women). The women's organizations are recognized by quite a few observers to be particularly effective. These various associations refuse to accept the unacceptable. They are the best hope for enduring democracy and the protection of human rights.

Rwandan human rights and related groups

56. One of the Special Representative's principal goals is to encourage local human rights groups. It has been a difficult decade for these organizations. Most were established in the early 1990s, and all lost members to the genocide. They have had their ups and downs since. The Special Representative was relieved that in the last year these human rights defenders had been showing signs of renewed vigour and confidence, though during his last visit he found some of them to be full of concern about the future of human rights in Rwanda and the region. This is in light of recent events in Kigali and the prefectures mentioned above, as well as Rwanda's continuing military involvement in the Democratic Republic of the Congo and in particular the fighting between Rwandan and Ugandan forces in and around Kisangani. In his meetings with representatives of these organizations in Kigali, the Special Representative has reminded them of the importance of their role in the promotion and protection of human rights in Rwanda, praised them for their work and suggested ways they could cooperate with the National Human Rights Commission and receive its support. But this would depend on improving their capacity, which still suffers from several serious weaknesses in the following areas.

Monitoring

57. The organizations' action in this respect has been hampered by their being mostly based in Kigali except LDGL, whose 24 member organizations (as of June

2000) are from Burundi, the Democratic Republic of the Congo (various cities), and Rwanda;[23] the resulting difficulty of reporting regularly on events outside the capital; and the lack of consistency between their monitoring methods.

58. They are, however, becoming more and more involved in monitoring, sending missions to the field for extensive investigations on specific human rights incidents or cases, such as alleged arbitrary arrests and assassinations of prominent personalities, or the human rights aspects of certain programmes, such as villagization. ADL has been particularly active in these areas, and has in some cases teamed up with Human Rights Watch, as have LIPRODHOR and LDGL. ARFEM (*Association rwandaise des femmes des média*), which is not strictly speaking a human rights organization (but falls into the category of what this report calls "related" organizations), has offices in Butare and Gitarama, as well as Kigali. Its Executive Secretary visits each prefecture once a month to monitor developments. ARFEM and the other organizations involved in the *Coalition de lutte contre les violences faites à la femme et à la petite fille*, as well as PRO-FEMMES, have been especially mobilized and instrumental in denouncing sexual abuse of women (including women detainees) and girls and in pushing for legislation and for punishment of the perpetrators. Three groups have developed urgent action procedures. Increasingly, they are working together on sensitive cases. LIPRODHOR has the most extensive system of monitoring. Its staff has visited almost half of the country's 154 *cachots*. It also monitors the genocide trials and produces a professional newspaper (*Le Verdict*) on the trials. With funding from the Government of the Netherlands, LIPRODHOR also follows up on persons released from jail. LIPRODHOR has also produced a report on sexual violence against children. So has AVEGA, further confirming the mobilizing power of this issue for Rwandan non-governmental organizations.

59. This kind of monitoring provides essential guidance for the Government and donors. To be effective, it requires greater capacity. In an effort to strengthen its monitoring, LIPRODHOR organized training sessions for its teams in the north-west, with funding from the Government of the Netherlands. The Government of Switzerland has purchased a vehicle that allows ADL to conduct urgent interventions. The Government of Canada has provided the funds for *Le Verdict*. Such projects are low in cost but important, because they strengthen the monitoring capacity. The Special Representative encourages donor countries and organizations to increase their funding of capacity-building in these non-governmental organizations. The latter's effectiveness also presupposes that the Government has both the predisposition and the mechanisms for responding constructively to the result of this monitoring. In many cases the Government has done so, taking positive legislative and/or administrative measures to deal with the problem at issue, for instance in the matter of women's right to inherit and that of sexual abuse of women and girls. On the other hand, some non-governmental organizations have complained that they have been accused of being ill-intentioned and that their reports on their investigations of reported human rights abuses, such as alleged assassinations and illegal arrests, have been politically biased.

Money and membership

60. Rwandan human rights groups continue to be totally dependent on a small group of international donors for support, and this is unlikely to change, given the state of the economy and the spread of poverty. The Special Representative would like to commend the donors that support these groups. But he would also ask that they build more institutional costs into projects and design projects for periods longer than six months (the average). These groups need core funding if they are to thrive. The Special Representative notes that different donor countries have different funding policies in this respect. He is gratified that the Government of Switzerland avoids these problems by not having a calendar-year approach, according to the Regional Humanitarian Coordinator at the Embassy in Kigali, not stopping their funding at the end of the year but working on the basis of a three-year programme strategy. The Special Representative also commends the Irish non-governmental organization Trocaire for moving towards a programme approach whereby it hopes to approve funding to its local partners for three-year periods.

61. The Special Representative would also draw attention to the importance of donor coordination. He heard that groups "shop around" for support and that a clear picture of their needs never quite emerges. This calls for closer coordination between donors, and could

point to a role for the Justice and Human Rights Unit established by UNDP in Kigali.

Acting on information

62. Even when groups receive accurate information, they often lack an institutional channel for it. Some have developed personal relationships with individual ministers, but these are broken when there is a Cabinet reshuffle. Furthermore, such personal relationships may sometimes come with a cost. There have been allegations that some non-governmental organizations and some of their members are sometimes reluctant to pursue certain investigations or to divulge their results because of their personal ties to members of the Government. It is the view of the Special Representative that good, or even friendly relations with the Government should not be an obstacle to a human rights defender conscientiously meeting his/her responsibilities in promoting and protecting human rights.

63. The human rights non-governmental organizations continue to emphasize the importance of human rights education and to regret the limitations on their technical potential in this field. For instance, while LIPRODHOR has the ability to prepare radio spots, it has been refused permission to run its own radio station. On the other hand, ARFEM has three broadcasts a week on Radio Rwanda aimed at sensitizing, educating and mobilizing the population, and of course that is very helpful to human rights. More could be done for human rights, however, if the airwaves were truly open.

64. Many human rights groups do not have basic human rights texts, and are also often the last to receive important government papers and draft laws. Several complained of not receiving the Special Representative's reports, though a few indicated they had read the most recent report to the Commission on Human Rights and even commented upon it. The umbrella organization CLADHO and the National Human Rights Commission might find it worthwhile to explore the possibilities of cooperating to improve human rights documentation in Rwanda.

Management

65. Weak management and administration remain a major obstacle to the success of human rights organizations in Rwanda. It is even reported that one of the international donors recently terminated its partnership with one of the major human rights groups in frustration at the management difficulties it was facing. This problem is of course not limited to human rights associations and it is a reflection of the general situation of underdevelopment. Not surprisingly, these groups are also heavily dependent on their individual leaders. Executive secretaries find themselves managing several projects, running the office, heading field missions, briefing visiting missions, attending conferences and even travelling abroad. If an executive secretary is replaced or resigns in difficult circumstances, as happened not long ago to one prominent organization, it can prove profoundly unsettling. Here again, such problems cannot be solved quickly, especially since the heavy dependence on few individuals is itself also a problem of paucity of resources. Management training can nevertheless help, though it will not be enough to solve the whole problem.

66. The Special Representative hopes that donors will make a concerted effort to improve the management capacity of Rwanda's small but energetic human rights community. Under its Human Rights Capacity-building Programme, Trocaire has so far organized four training seminars in which the nine human rights non-governmental organizations concerned have participated. The training covered not only human rights principles, instruments and ethics, but also strategic planning, investigations and monitoring techniques and proposal writing.

67. One new and noteworthy element is information technology. This offers obvious benefits to small groups that are starved of information and need to communicate. Several Rwandan human rights groups have access to e-mail but find it hard to exploit. Part of this is due to the limited service offered by Rwandatel, which has a monopoly as the only service provider; part is due to unfamiliarity with new information technology.

68. The Special Representative hopes that the Government will deregulate and permit the development of independent service providers, which would allow civic associations and individuals better

access to the Internet. He would also strongly urge that private radio stations be permitted to transmit. He knows of at least one human rights group that has prepared radio programmes on human rights, but has been prevented from transmitting.

Freedom of the press

69. The Special Representative believes that Rwanda's press has a crucial role to play in the country's transition to democracy, reconciliation and peace. For this to occur, it needs to be able to operate in an environment of readily available channels of communication and in a climate free from intimidation. This will require legal safeguards, a policy of openness and transparency, financial viability, and training in professional reporting.

70. All these are struggling to emerge in Rwanda. This was shown last year when a journalist wrote an article charging that money had been diverted in a sale of helicopter parts. He was arrested and jailed without charge. After being released provisionally he wrote another article complaining of corruption in the very jail where he was detained. It is deplorable that a journalist can be jailed for protesting against corruption, but heartening that he had the courage to express his views. Furthermore, the Association of Rwandan Journalists also showed its independence by protesting on his behalf.

71. On the other hand, most of the 15 titles have a small readership. As of August 1999, none had its own printing press. The streets are full of Kenyan and Ugandan papers. Though there are local weeklies, there is not even one local daily newspaper. At least one of the local weeklies is actually printed in Kampala, because it is cheaper to import it from there than to produce it locally. Still, the paper is relatively expensive at roughly US$ 1.00 a copy.

72. There is still much that donors can do short of outright subsidies and they have provided aid in a variety of creative ways. These go from the United Kingdom's paying for the construction of newspaper kiosks around the country and funding of a vehicle for the Association of Rwandan Journalists to UNESCO paying the rent for the *Maison de la presse* and for the salary of its Director, while also organizing training sessions for journalists. It was at the *Maison de la presse* that the Special Representative held a press conference and had an exchange of views with the local media on 24 June 2000. He is grateful to the Director for having organized and hosted it.

73. The Special Representative would also like to refer to the new press law currently under discussion in the Transitional National Assembly. One provision requires that every media title be owned by a commercial enterprise. Considering that none of the 15 titles is currently commercial, this provision could bar small publications being issued by civic associations. This would be most regrettable and could lead to a monopoly of ownership. On the other hand, this bill provides an excellent opportunity to promote openness and the development of a free, dynamic, unbiased and responsible press. Incentives should be given to that effect, including some of a fiscal nature, for example to lower the price of newsprint and facilitate investment in media-related activities. High priority should be given to facilitating the birth of at least one low-priced daily newspaper in the national language, as is routinely found in even the poorest countries of the world. Finally, as discussed above, there have been claims of Government taking arbitrary measures against journalists from periodicals critical of the Government or its policies. The Government of Rwanda has rejected these criticisms in its response to the human rights reports of Human Rights Watch and Amnesty International. The claims persist in various quarters, however. For this reason, the Special Representative strongly urges the Government of Rwanda, as it reportedly did with the "Haguruka" Association for the Defence of the Rights of the Woman and the Child in the elaboration of the Inheritance Law, to consult closely with all the media and their organized representatives, such as the Rwanda Association of Journalists and ARFEM, as well as regional and international journalists' associations, for the purpose of jointly finding ways of promoting and guaranteeing in law and policy the credibility of freedom of the press in the country. The Special Representative considers this vital for the development of democracy and human rights in Rwanda.

Batwa

74. One relative newcomer to Rwandan civil society deserves mention. Historically, the Batwa have always been Rwanda's third, usually unnoticed, ethnic group.

With the removal of ethnic labels from identification cards, they are no longer officially designated an "ethnic minority". Nevertheless, they remain a clearly identifiable part of Rwandan society which needs to be integrated in order to reduce its vulnerability to isolation, incomprehension, poverty or discrimination. Such a deliberate step by the Government will certainly put an end to the Batwa's sense of insecurity and marginalization.

75. There are some promising signs. Prior to 1994, there were only two Batwa organizations. Today there are seven. This drive to organize and take control of their own lives is the essence of civil society and should be supported. The Government is to be commended for making this possible. However, the seven groups need, first, to cooperate, coordinate, and seek registration as non-governmental organizations singly or together. Second, they need to be integrated into the human rights debate and introduced to donors in Kigali. (At present, most of their support comes from the minority rights and indigenous networks in Europe.) Hopefully, this will lead to projects. For example, they need technical advice on how to improve the quality and marketing of Batwa pottery, which is a mainstay of many Batwa families.

76. This process need not be presented as a demand for the rights of the Batwa minority — an inappropriate approach in the current Rwandan context — but rather as the realization of economic and social rights of an underprivileged group. The Special Representative commends the National Unity and Reconciliation Commission for having organized a special session with representatives of the Batwa after it discovered that the Batwa had not participated much in the Commission's nationwide grass-roots consultations. This augurs well for the Commission's playing an effective role in helping to integrate the Batwa as equal partners in the national community.

International human rights non-governmental organizations

77. Civil society is not limited to national organizations. It has an international dimension as well.[24] This is especially important in a country like Rwanda where national human rights and related associations are so dependent on international funding and support. Much of that assistance is provided by or through international non-governmental organizations. Of course, the assistance provided by international non-governmental organizations does not all go to or through national non-governmental organizations in general, let alone national human rights non-governmental organizations. Much of it goes directly to Government or to communities. Some 83 international non-governmental organizations were listed in the June 1999 edition of the IMU (United Nations Information Management Unit) Directory for Rwanda, the most recent issue available in bound form.

78. Not all of these organizations are human rights or justice non-governmental organizations properly speaking. Among them some, like Human Rights Watch, do human rights monitoring. *Avocats sans frontières* (ASF) (Belgium) and Penal Reform International (PRI)[25] are respectively dedicated to improving the administration of justice and the penitentiary system. Most provide a variety of aid to Rwanda, including material assistance, financial aid, technical cooperation, training and coordination. With funding from Belgium, Germany, the Netherlands, the United Kingdom, Switzerland, the European Commission and the non-governmental organization CAFOD (Catholic Agency for Overseas Development), ASF (Belgium) monitors the administration of justice in Rwanda, provides legal assistance to both the accused and the survivors and the families of the victims of the genocide, trains judicial officials and otherwise supports the administration of justice, and reports twice a year on the state of justice in Rwanda.[26]

79. The Danish Centre for Human Rights has partnerships, for instance with the National Human Rights Commission, for the human rights training of police officers, and a Justice Programme funded by the Governments of Denmark, the Netherlands, Sweden, the United Kingdom, and Trocaire, parallel to that of ASF, for the training, support and equipping of judicial defenders, who are not lawyers but provide legal assistance. It undertakes legal dissemination and information, targeting in particular the people in the communes and in the prisons. To do its work, it has teams in Byumba, Ruhengeri and Gysenyi, aside from its main office in Kigali.

80. Aside from its food security and income-generating activities, Trocaire also covers justice and human rights and peace and reconciliation. Like other non-governmental organizations, it is moving away from humanitarian aid towards long-term development in partnership with local non-governmental

organizations. It has a long-established capacity-building programme, including in human rights, which incorporates a lot of training, for the implementation of which it created a partner called ADTS (*Association Delta pour la transformation sociale*) based in Gikongoro. The capacity-building for human rights organizations includes organizational, accountancy, investigation and monitoring techniques. It is backed up by funding. It also included a just completed three-year training programme for social workers in women's and children's rights. Trocaire has also organized sensitization seminars on the rights of women and children for secondary schools and local authorities. It gives support to working groups made up of court and prison officials with a view to making them more efficient in processing dossiers. It supports dioceses in the north-west in undertaking prison visits, encouraging detainees who are guilty to plead guilty and even to ask for forgiveness, giving moral support to the detainees, helping them write their letters seeking forgiveness, and preparing the victims' families to receive the letters. With co-funding from the Government of Ireland, Trocaire also funds prison and court monitoring by LIPRODHOR's *Centre de documentation et d'information sur les procès du genocide* (CDIPG).

81. Human Rights Watch is best known for its monitoring of and reporting on human rights violations. It collaborates with some local human rights non-governmental organizations. It also plans to offer them training in investigative techniques.

Registration of non-governmental organizations

82. After five years, the Government has approved a draft law for the registration of non-governmental organizations. This is long overdue in that many non-governmental organizations have been operating in a legal and financial limbo. On the other hand, one human rights group expressed concern that the law could threaten its independence and impose a heavy administrative burden by requiring that all representatives of non-governmental organizations be approved by the Ministry of Justice, and that any modification of statute be submitted to the Ministry.

83. The Special Representative would also be concerned at such a requirement. He would point out that independence makes civil society effective, and so increases its value as a partner to Government.

VIII. National Human Rights Commission

84. The Special Representative notes with great satisfaction that Rwanda now has an active and independent National Human Rights Commission (NHRC) able to take its place in civil society and serve as the country's institutional focal point for human rights. As is known, the Special Representative has strongly supported NHRC since the start. He now offers his services to help it fulfil its mandate, and the high hopes placed in it by the Rwandan people.

85. NHRC was established by law in January 1999 and finally constituted on 24 May 1999, when its seven members were elected by the Transitional National Assembly from a list of 10 candidates submitted by the Government. The law also gives it a strong mandate by ensuring its independence and calling on it to investigate violations and to sensitize and train the Rwandese population in matters of human rights.[27] The Special Representative is pleased to note that the law recognizes the need to attract the most qualified commissioners, and to ensure their full independence.[28] He further notes that the NHRC budget is placed within the national budget. Moreover, he understands that, during the budgetary revisions that took place in June 2000 owing to the difficult financial situation of the Government, while reductions of up to 20 per cent were proposed to the budgets of other institutions, no such cuts were even discussed for NHRC, subject to confirmation by the Transitional National Assembly which is expected by July 2000. This is a good sign regarding the expressed commitment of the Government of Rwanda to an effective and independent NHRC.

86. The Special Representative and his colleagues have had many meetings with the commissioners, both in Kigali and in Geneva, and he is impressed by their determination to listen, learn and act. He has also appealed for international support for NHRC, and is pleased that the United Nations High Commissioner for Human Rights was able to provide funds for the seven commissioners to attend a four-week training course on human rights at the International Institute for Human Rights in Strasbourg. Upon its completion, they visited

Geneva and met with the High Commissioner and her staff.

87. The last year has been a time of establishment, consolidation and background fund-raising work for NHRC. It organized a successful four-day public international round table in Kigali, from 12 to 16 October 1999, with financial and technical support from OHCHR, the UNDP office in Rwanda and the Special Representative. The round table allowed the new members of NHRC to meet and share views with colleagues from other parts of the world and representatives from the Transitional National Assembly and the Government, the Rwandan judiciary and civil society. The Special Representative expresses his appreciation to the Government of Switzerland for financing the publication of the final report of the round table, which has been widely circulated and helped to promote the work of NHRC.

88. Following the training in Strasbourg and the round table, NHRC elaborated a work plan for the period up to the year 2002. It is now proceeding along two parallel tracks. On the one hand, the commissioners are refining their own internal procedures, recruiting staff and developing operational guidelines. They have divided responsibilities (social and economic, juridical, promotional and other aspects).

89. At the same time, NHRC is receiving petitions on a wide range of issues, undertaking inquiries, and reaching out to Rwandans. The petitions have come from relatives of people arbitrarily detained or who have allegedly disappeared, asylum-seekers and persons involved in property disputes. They have even included questions about sexual preference, which is a new and sensitive issue for Rwanda. At the request of a Rwandan human rights group, NHRC traced and found two persons reported to have disappeared in prison. It has also mediated in a property dispute. The Commission also intervened more recently with regard to the assassination of Mr. Kabera, the Senior Adviser to the former President of the Republic, and on behalf of two soldiers summarily extradited from Tanzania after they allegedly assisted in the clandestine departure of the former President of the Transitional National Assembly.

90. NHRC has also expressed concern at the 18-month duration of the new extension on *détention préventive* (remand in custody) and submitted these in writing to the Transitional National Assembly. The commissioners will continue to press for improvements in the law. In an effort to promote human rights and spread the word about their work, they have visited all 12 prefectures and met with hundreds of representative individuals from all walks of society. In late June, six of the commissioners visited several detention centres in the country. The Commission also met with a delegation from the European Union to discuss the possible funding of a *gacaca* monitoring project prepared two months earlier. Meanwhile, the Commission is pursuing the drafting of its rules of conduct, has created 26 staff posts and is trying to set up, train and harmonize its staff, while at the same time promoting and protecting human rights. Commissioners continue to attend the meetings of the African Commission on Human and Peoples' Rights, the latest being at Algiers in May, and other international human rights gatherings.

91. The Special Representative is gratified at the progress made. He is also gratified by the interest shown by donors, who, at his request, have organized an informal working group in Kigali, the "Friends of the Commissions", to act as a "sounding board" to review periodically their cooperation with NHRC and the National Unity and Reconciliation Commission (NURC), in conjunction with the UNDP Justice and Human Rights Unit. At the same time, however, it was made clear to the Special Representative during his recent visits to Kigali that some donors would like to see a greater sense of urgency in NHRC, attendance at fewer international meetings, less ambitious projects in terms of regional representation and human rights surveys, more concrete results and a clearer sense of priorities in order to avoid being buried under an avalanche of cases; these priorities include such issues as alleged compulsory recruitment of young people into the armed forces, villagization and local defence forces. In general, the donors clearly need to be better informed about the NHRC's activities and its interaction with Rwandans. The Special Representative now awaits with great interest the French and English translations of the first annual report of the Commission which was issued in Kinyarwanda in May 2000. This is an important benchmark as this first annual report will reflect the main activities, findings, recommendations and results obtained so far by the Commission and will be made public. The translations are due to appear towards the beginning of August 2000 with funding provided by the American Embassy

in Kigali. NHCR also intends to issue regular written bulletins.

92. The Special Representative agrees with NHRC that it cannot embark on sensitive human rights investigations without clear operational guidelines and that commissioners need time to develop programmes, both individually and as a team. On the other hand, he also understands the donors' desire to see results and receive realistic project requests. In seeking more funding from donors, it has to address their concerns.

93. At a meeting of the "Friends of the Commissions" and representatives of NHRC held on 21 January 2000, it was agreed that cooperating on a specific project would help to build a working relationship. NHRC suggested a study setting out who is doing what in the field of human rights, with a view to identifying gaps and needs. This proposal has now been developed by NHRC and expanded into a "Survey of the State of Human Rights in Rwanda", covering the human rights situation, the institutions involved with such rights, their fields of action, the nature and extent of their interventions, the means utilized, the beneficiaries, and the results of these interventions. The funding for the project was being discussed with bilateral donors in late June. The United Kingdom has already expressed interest in the project. Switzerland and the Netherlands have indicated readiness to fund a system of regional offices proposed by NHRC, which planned to criss-cross the country in June/July and select sites for the offices, probably but not always in the capitals of the respective prefectures. These regional offices would enable NHRC to be closer to the population and more responsive to its regionally diverse needs.

94. The Special Representative is convinced that technical assistance would greatly help NHRC to develop projects. He welcomes UNDP's success in obtaining a commitment of funds from Switzerland for NHRC to hire two national staff for a 12-month period and one international consultant for an initial five-month period to survey the human rights situation in Rwanda and formulate medium- and long-term programmes, an action plan and an implementation strategy for the Commission. Hopefully, these persons can be recruited at an early date. He has also suggested that Trocaire, which has a programme of capacity-building with Rwandan human rights groups, make its expertise available to NHRC.

95. As indicated earlier, the Special Representative has also actively promoted discussions between NHRC and OHCHR and pushed for action within OHCHR with a view to the initiation of technical cooperation between the two institutions. Thus, the Chairman of NHCR during his visit to Geneva in April 2000 personally submitted to the High Commissioner for Human Rights a letter seeking OHCHR's assistance in the fields of training for Commission staff, setting up a database, developing a complaints handling system, establishing a human rights documentation centre/library within the Commission and setting up regional offices in order to address effectively the question of accessibility. Following intensive discussions in Kigali and Geneva, a project package detailing a timetable for the implementation of these proposals, together with their administrative and financial requirements, has been prepared and submitted to OHCHR's Project Review Committee in Geneva. The elaboration of this project package was greatly facilitated by the assistance of a Canadian consultant made available in Kigali, during the Special Representative's visit in June, by the Uganda Human Rights Commission and OHCHR. The Special Representative is deeply gratified by these developments and very much hopes that the High Commissioner for Human Rights will soon be able to give her approval to this project package and will sign an appropriate agreement with NCHR. This will open a new chapter of cooperation between Rwanda and OHCHR.

96. The Commission is evidence of Rwanda's commitment to the development of a culture of human rights and the ending of a tradition of impunity. Once again, he urges and encourages the international community to support its efforts.

IX. Crisis in Rwandan prisons

97. This report devotes considerable attention to detention and the rebuilding of Rwanda's judiciary. It is hard to comprehend that around 123,000 detainees are still crowded into civilian and military prisons and communal *cachots* six years into the transition — many without being charged. The Special Representative sees this as a critical test of the international community's ability to respond to genocide with the rule of law.

98. The Special Representative understands the dilemma that faces the Government. It has been

explained many times. Put simply, the perpetrators of genocide must be punished — but Rwanda's judiciary was virtually destroyed in the genocide. In the meantime, suspects must remain in prison, at times for their own safety. This impasse has blocked a solution for six years.

99. The Special Representative is pleased to report that he sees the possibility of a breakthrough in this intractable and dangerous problem. There is, first, a note of realism in the present discussions. Government ministers agree that prisons are imposing an impossible economic burden — taking about 5 per cent of the national budget annually, even though the result is below acceptable standards of humanity and decency. They understand the damage that is being done to Rwanda's commitment to human rights, and to national reconciliation.

100. The Government has therefore undertaken a series of bold moves which strongly merit international support. The Ministry of the Interior acquired the direction of prisons under a government reorganization last year, and is supposed to take over the running of the *cachots*. A new law on prisons has been drafted, and new prison regulations will be published when the law is adopted. The Ministry of the Interior is taking over the judicial police inspectors, who carry out the investigations, and incorporating them into an expanded criminal investigation division. The Minister himself has made a personal commitment to improving prison conditions. It is particularly gratifying that the Government is prepared to allow regular inspection of prisons.

101. The Special Representative would also like to commend the Government for its restraint in carrying out executions. The last executions occurred in April 1998, and he has not been informed of plans for further executions. At the same time, of course, the number of those condemned to death, which stood at 348 at the end of 1999, continues to rise. Eventually this will have to be resolved. A formal abolition of the death penalty and the formal commutation of the death sentences already announced would not only strengthen Rwanda's credibility in its professed commitment to human rights; it might also generate more confessions, which would help in alleviating the pre-trial and pre-dossier caseloads and encourage more foreign Governments to extradite genocide suspects, which would further Rwanda's ability to mete out justice to those who conceived, inspired, planned, organized and led the genocide.

102. In spite of the positive developments, the Special Representative is concerned that the overall number of detainees has not declined thus far in 2000. At the end of 1999, 121,500 detainees had been registered by the International Committee of the Red Cross (ICRC) — 87,500 in the country's 19 prisons and 31,000 in the *cachots*; another 1,200 were being held in military detention. This was an improvement — most of which occurred in the first half of 1999 — compared with the figure of 125,028 for December 1998 reported by ASF on the basis of figures supplied by the Ministry of Interior.[29] During 1999, 6,300 detainees were released, 4,900 were formally arrested and about 1,000 died. By June 2000, however, ICRC had recorded a total of 123,000 detainees: 118,000 accused of genocide and 5,000 common law prisoners. Out of the overall total, 92,000 were being kept in central prisons administered by the Ministry of Interior, with the bulk of the balance in *cachots* administered by the communes and the rest in military prisons. Thus, the detained population had risen compared to the end of 1999, even if by a small, though not insignificant, amount (roughly 1.23 per cent in six months), in spite of the several measures taken by the Government to solve the heavy backlog problem.

Cachots

103. Conditions are worst in the country's 154 *cachots*. These are meant to hold detainees for up to 48 hours, until they can be transferred to a prison. But the Special Representative's mission talked with some detainees in *cachots* who had been detained for over three years. This situation had not improved when the Special Representative visited the *cachot* in Gitarama commune in June 2000.

104. Precisely because *cachots* are supposed to be temporary, the local commune has no budget for them. It is left to the families of prisoners to bring food, often from very long distances. Abuse, neglect and overcrowding are prevalent in this climate. Eighty-five per cent of the detainees interviewed for a LIPRODHOR report last year had not been charged. Scores showed the wounds of mistreatment.

105. This situation has created a vicious circle. Conditions in the *cachots* are so abusive that very few

agencies wish to be seen offering assistance. They also fear that locals would object to suspected killers receiving food that is denied to their own families. But this merely leads to worse conditions. While ICRC takes turns with the Ministry of the Interior in feeding the detainees in the central prisons, it does not provide food to the *cachots*.

106. It is time to break the impasse of the *cachots*. During his August visit last year the Special Representative strongly advised the Government to place the *cachots* under the direction of the Ministry of the Interior, thus allowing the Ministry to treat them as an extension of the national prison system, which is what they have become. The Ministry of the Interior reacted most positively to this idea. The Special Representative is gratified that a law has been prepared to this effect but greatly concerned that the move had not yet occurred as at the date of writing this report.

107. It is also essential that the Ministry be provided with a budget for providing water, sanitation, medical services and, above all, food. ICRC (which provides 55 per cent of the food for the prisons) has made it clear that it will not supply food to *cachots*.

108. In the meantime, many small measures could be taken to improve conditions, at very little cost. Merely providing sandals would relieve the pressure for those forced to stand and reduces the risk of swelling in the lower limbs. Exercise is obviously essential.

109. The Special Representative is gratified to note a trend towards greater engagement by donors. The non-governmental organization Concern Worldwide has built kitchens for eight *cachots* in Butare prefecture. In the same prefecture, the Swiss non-governmental organization Dignity In Detention has negotiated with the *bourgmestre* of Rutobwe commune to allow prisoners to grow food for the local community. It was reported to the Special Representative in June that Penal Reform International would shortly be providing triple-decker beds, plus mattresses and blankets, to the Gitarama Central Prison to alleviate the sleeping problem connected with the extreme lack of space and bedding supplies there. The director of the prison had requested blankets from the Ministry, but none could be had. At the moment, there is standing room only in many areas. Detainees have to take turns to sleep, and many have to sleep on the bare, dirty ground in the crowded yard, without sheets or blankets.

110. The Special Representative's mission visited another commune, Nyabisindu (Gitarama prefecture), where 152 detainees are building houses for widows and orphans of those killed in the genocide. This provides the prisoners with exercise and promotes reconciliation. In Gitarama commune the women detainees were found sitting along a wall in the yard weaving the beautiful local-style straw baskets to give to their relatives to sell to help feed them.

111. In the end, these promising initiatives in the *cachots* rely on the imagination and initiative of the individual *bourgmestre*, who wields enormous power in the communities of Rwanda and must be the target of any intervention by donors. For every *bourgmestre* who abuses his power, there is another who strives to do better. He or she should be rewarded by the international community.

Prison administration

112. The Special Representative is distressed that conditions in Rwanda's prisons continue to violate the basic norms. At the same time, he applauds the efforts of the Ministry of the Interior to improve prison administration and put an end to corruption. Last year, 9 of the country's 19 prison directors were dismissed and jailed on charges of corruption. Several are suspected of using prison labour to build extravagant houses.

113. During a visit to Kigali Central Prison, the Special Representative was told that the supply of medicine was two weeks behind schedule, at a time when malaria was widespread and a mysterious outbreak of "trembling" had broken out among female detainees. Part of the problem was bureaucracy: the prison administration has to send a written request to the Ministry of the Interior, which then passes it on to ICRC.

114. On the other hand, in the Gitarama Central Prison nearby, the Special Representative saw a good number of male and female detainees practising their singing in a choir in a building in the front yard. A short distance from there, he visited a tailoring shop with 11 foot-powered sewing machines where an equivalent number of inmates were learning and/or practising the tailoring trade. The director reported that others were raising rabbits, chickens, goats and pigs, all to be sold outside for cash. Vegetables were also grown in the garden for

inmates for whom a special diet had been prescribed for health reasons. (The regular diet, when it is available, contains neither meat nor vegetables, only a paste made of maize flour, with beans or peas. The only drink available is water, which is plentiful.) It was also remarkable that in the midst of this tremendous squalor, some educational activities were made available, in particular language lessons, mainly English, French and Swahili. In the Minors' Section (that is, they were minors at the time of their arrest), the spokesman for the young inmates spoke eloquently and critically, in perfect English, about his detention. He was 22 years old, and was 17 at the time of his arrest in 1995. When asked where he had learned such good English, he answered matter-of-factly, "In the prison." The Special Representative is gratified that such programmes are available in the prisons to alleviate the otherwise terrible situation which prevails in them.

Food crisis in the prisons

115. In the first half of 2000, while food shortages and even famine were affecting the eastern part of the country, a food crisis was developing in the prisons as well, and it was not necessarily a direct reflection of the problem outside. ICRC had arrived at an agreement with the Ministry of the Interior whereby they would alternate in providing food to the prisons, with ICRC being responsible for two months and the Government for one. The problem arose when the food failed to be delivered during the periods when it was the responsibility of the Government. It is not certain why this has happened, but the explanation offered by the food suppliers was that the Government was unable to pay for the food purchases. Whatever the reasons, there are times when the prisoners go for three or four days without food, if they do not receive it from family or friends. To understand what this means, it must be noted, for example, that out of a prison population of 8,017 at the Gitarama Central Prison, only 3,000 are in a position to receive food from relatives. It should be noted also that even when food is delivered every day, meals are distributed only once a day. At the moment, the situation is much worse. In the current crisis, there are reports of prisoners dying from starvation in some of the prisons, though no statistics are given. While the Special Representative realizes that, as some officials and genocide survivors are reported to have commented, many more people are starving outside the prisons, and that the upkeep of the prisons is already claiming an inordinate portion of the national budget, it is however unacceptable that such a situation should be allowed to continue, and every effort must be made, with the help of the international community, to end this tragedy.

Problem of access to outside medical care

116. In the prisons, there are dispensaries and they are well supplied with medicine by ICRC, though there are reports of thefts of medicine by the staff for sale outside. Serious problems occur, however, when a detainee has to be sent to a hospital outside for medical care. Usually, there is no money to take them to a hospital, and when they can go, the hospital often refuses to receive them because the Ministry does not pay for their care. When ICRC asked the Minister for an explanation, it was told that the Minister had instructed that the medical care should be provided, whether funds were forthcoming or not. The situation is the same for the detainees in the *cachots*: theoretically, when they are sick, they are taken to the dispensary in the central prison of the prefecture concerned; in reality, it depends on how far the prison is. In the case of the Gitarama communal *cachot*, which is very near the central prison, there is no problem. If the prison is far away, the detainee is not taken.

Training prison guards

117. It is the guards, who come into contact with prisoners on a daily basis, who are most in need of training. Once again, this is linked to the wider problems facing the judiciary. Many prisons are very short-staffed (the prison in Rilima, in the prefecture of Kigali Rural, had 17 guards for a prison population of 12,000 last August). Indeed, one barely notices the presence of guards when visiting prisons. Most guards are so poorly paid that they resort to robbing detainees.

118. Penal Reform International (PRI) trained 400 prison guards last year, but it was months before they could be deployed — either because of slowness in vetting their backgrounds or because they lacked training in the use of firearms and crowd control. As indicated, Trocaire supports a programme to make prison officials more efficient in the processing of

dossiers. This is important, because in many of the cases of detainees without a dossier, the file does exist and is just missing, often because the officials concerned failed to move the file with the detainee when he or she moves from one place of detention to another. In these circumstances, there is no record of where the dossier is.

119. The Ministry of the Interior proposes to establish a training centre for prison guards within an existing training facility for police at Gishari, in Kibungo prefecture. The Special Representative strongly endorses this proposal and hopes that it will attract funding. He would also support the Ministry's plans to professionalize and restructure the civilian police in Rwanda. The relevant law was passed by the Transitional National Assembly in October 1999.

Community work for prisoners

120. During a visit to Kigali Central Prison, the Special Representative was able to see the benefits that come from giving prisoners the chance to work. The project is run by PRI, which operates in eight prisons. At Kigali Central, 1,000 prisoners are permitted to work in the fields and in a carpentry workshop, where they make furniture. Seventy per cent of the profits go to the Ministry and the rest are reinvested in the jail. The prisoners themselves receive a monthly stipend with which to purchase food. Out of a prison population of more than 8,000, the Director of the Gitarama Central Prison reported that more than 1,000 go out to work in various projects including construction, carpentry, tailoring, agriculture, livestock-raising, brick-making, etc., as far as 3 kilometres away.

121. Initially, Rwandans resented the fact that people suspected of having committed genocide were receiving payment. But PRI has made it clear that the alternative is slave labour, which would be unacceptable. The PRI model could be important for *gacaca*, which will make extensive use of community service, but first it has to be extended to all the jails. In Kigali Central, only a sixth of the prisoners are permitted outside. Regrettably, none of the 670 women prisoners has this opportunity, a clear example of discrimination. The Special Representative was gratified to be assured, during the mission of his team to Rwanda in January, that this will be rectified and that equal opportunities would be afforded to male and female prisoners.

Prison discipline

122. The authorities face a major dilemma in enforcing discipline in prisons. On the one hand, security inside the prisons has to be left to the prisoners themselves, given the numbers, there is no alternative. The male and female sections are each led by a "captain-general" of the sex concerned. Unfortunately, this opens the way to abuse and Mafia-like activities within the prison walls. Most prisons even have their own *cachots*, where "offenders" are detained.

123. As part of his personal crusade to improve prison conditions, the Minister of the Interior has let it be known that fighting, homosexuality, and the use of drugs will not be tolerated. During a visit to one prison he ordered prisoners caned for homosexual acts, and arrested a supplier of government food who had delivered rotten beans.

124. The Special Representative understands the motivation, but must also caution that any disciplinary measures must be in accordance with the law. The Minister himself acknowledged that the issue of sexual preference is a new one for Rwanda and needed careful review; corporal punishment might not be appropriate. On the issue of health, the spread of HIV/AIDS within prisons must of course be contained, and the Special Representative applauds the Ministry's plan to set up dedicated units within each prison. He also points out, however, that the risk of HIV/AIDS infection is greatly increased by overcrowding, where male and female prisoners are not separated, and where minors are detained with adults. Improving conditions is the best form of prevention.

Detention of children

125. The involvement of children was one of the most shocking aspects of the genocide. Some killers were as young as 10 years of age. Most were influenced by adults, but some acted alone and even directed other killers. As a result, there is strong pressure to treat them like normal criminals. At the end of 1999, 4,454 children were in detention in prisons and *cachots*, subjected to the same vagaries as adult detainees. According to UNICEF, only 30 per cent had completed

files. Many were incarcerated with adults — in clear violation of the Convention on the Rights of the Child which Rwanda ratified in 1991. (Only 6 of the 13 prisons have separate wings for minors. The Gitarama Central Prison has two big, but overcrowded rooms for male minors, but nothing to prevent passage to and from the adult male section. On the other hand, the female section was enclosed and firmly separated from the male sector.) Perhaps most alarming, more than 450 children have been formally cleared of involvement in the genocide but remain in detention. Only 196 children were released last year.

126. Most of the detained children were over 14 at the time of the genocide, but several hundred were younger. Under Rwandan and international law, the legal age of responsibility is 14, which means that all those in the latter category are illegally detained. At the same time, there is opposition to their unconditional release. In an effort to break the deadlock, UNICEF has been supporting a centre at Gitagata (in the prefecture of Kigali rural), where suspected *génocidaires* who were under 14 at the time of the genocide are taken and rehabilitated before returning to their families. Since it opened in 1995, 297 children have passed through the Gitagata centre.

127. The Special Representative's delegation visited Gitagata in January, and was impressed by the facilities. While far from luxurious, they allow for exercise, education and medical treatment — none of which is available in prison. Only four children have tried to escape in the four years that the centre has been open.

128. The main goal of rehabilitation, according to officials, is to make the children understand "the difference between good and evil". It is left to instructors, who work with groups of about 20, to decide when this point is reached. Initially, it took over two years; today it is less than a year. Once a child is deemed fit to return home, the local branch of ASOFERWA prepares the ground for the release with the community. ASOFERWA has managed to follow up 100 of the 297 cases and found no instance of reprisals.

129. The Special Representative fully supports the Gitagata initiative. Indeed, he would urge the Government to make more use of the centre and release more children from prison. Gitagata now holds about 170, but could easily take 400 — which is approximately the number that the Ministry of the Interior would like to move out of prison. This should be expedited as a matter of urgency. It may mean providing Gitagata with more dormitories, mattresses, beds, food rations and staff.

130. At the same time, Gitagata can only be one component in a concerted push to resolve the problem of detained children. The Government would earn the gratitude of the international community by treating detained minors as a priority, by separating them in prison, by completing their files, by bringing forward their trials, and by releasing those without a case. UNICEF has pleaded for months for this to happen, but to no avail. ASF still complains of the presence as of 30 November 1999 of no fewer than 292 minors under 14 years of age in the nine prisons it investigated, of the slow processing of the dossiers of the minors, and of the lack of judicial assistance for many of them.[30] The Special Representative urges the Ministry of the Interior to pay special attention to the problems of this category of prisoners.

Releases

131. The best way to ease overcrowding is by release. The question is how to accelerate releases in a manner that is compatible with justice and does not provoke protests from local people. This is one of the goals of the proposed traditional justice (*gacaca*), but paradoxically, all releases are apparently on hold, awaiting the implementation of *gacaca*. This probably explains the failure of the various initiatives to produce the expected reduction of the caseload.

132. There was fierce resistance when the Government announced, on 6 October 1998, that it planned to release 10,000 prisoners who had no judicial files. Survivors protested that this was a denial of justice and there were reports of acts of violence against individuals. Some even sought refuge back in the prison. Even when they were not directly targeted, those released found it hard to reintegrate. One analysis by LIPRODHOR found that some were denied identity cards and the right to work. This was particularly difficult for those who had been disabled in prison. As a result, the Government turned to a more low-key approach. The local authorities try to prepare opinion in the village before an individual is released. A recent LIPRODHOR report suggests that this has resulted in a steady decline in reprisals, which should encourage more releases.

133. The Special Representative's own inquiries suggest that the release of humanitarian cases, and those found to be innocent, can promote reconciliation. In August last year, his mission visited the commune of Nyabisindu in Butare, where 40 prisoners had been freed from the *cachot*, including 20 who had no file. New charges were levelled against 10, who were rearrested; the other 30 were given a document confirming their innocence, and this was used by local leaders to inform local families. Public opinion has been further softened by the fact that prisoners are building houses for widows and orphans, as explained above.

134. The Special Representative urges the authorities, and Rwanda's international partners, to initiate more projects like Nyabisindu, in as many of Rwanda's 154 communes as possible. He also appeals for the release on humanitarian grounds of detainees over 70, the chronically ill, small children, and mothers who have given birth in jail.

Donor cohesion

135. It will require a concerted effort by the Rwandan authorities under the direction of the Ministries of the Interior and Justice, with the participation of civil society, the Rwandan National Human Rights Commission, and perhaps the National Unity and Reconciliation Commission as well, to address the crisis in Rwanda's prisons. Somehow, prisons must be brought into the mainstream of public debate. But this must be matched by a more coherent approach from the international community.

136. The Special Representative wishes to pay tribute to organizations working on the frontline on this crucial issue. By its work in prisons, the International Committee of the Red Cross is implementing the spirit of the Geneva Conventions. Penal Reform International is doing difficult work in distressing conditions. Trocaire also is involved in the area, as are Concern and Caritas regarding the feeding of the families of the *cachot* detainees. Backing them up are a small number of donor Governments that are deeply committed to the improvement of justice. In some respects, this is a model intervention by the international community.

137. However, it can be improved. Simply put, donors are more committed to the reform of justice than to the crisis of detention. The Special Representative was concerned to hear that PRI's valuable projects were jeopardized when a grant from the European Union took almost nine months to arrive. This meant that the prisoners could not take advantage of the harvest and buy food.

138. There seems to be little donor interest in the Government's plans to train prison guards as part of a broad policy to upgrade and professionalize the civilian police. The Special Representative commends the Governments of Uganda and the United Republic of Tanzania for training Rwandan police officers, and the Government of the United Kingdom for providing human rights training to police. Tanzania, Kenya and Malawi have also offered to train prison guards, but the numbers involved are small and they need support.

139. The reticence of donors is most marked when it comes to working with the Ministry of the Interior, and to the construction of new prisons. There is an understandable fear that new prisons would simply invite new prisoners. In one example, ICRC agreed to support the construction of a new prison at Nsinda on condition that it hold no more than 5,000. Last August it held 12,500.

140. This makes donors wary. But they cannot ignore the fact that the Ministry is now a major player in human rights, and that more prison space will be needed regardless of *gacaca*. Even with mass releases, optimists predict a prison population of at least 60,000 by the year 2005, which, in per capita terms, would still be one of the highest in the world. Prisons — and detention — must be part of a comprehensive solution.

141. Donors seem willing to support the reform of justice, while remaining reluctant to put money into a system of detention that clearly does not meet minimum standards. The Special Representative urges donors to reconsider their position in order to break this vicious circle which perpetuates unacceptable conditions in prisons. More seriously, it virtually guarantees that detention will undermine reconciliation and complicate Rwanda's recovery. It is time to turn Rwanda's prisons from a symbol of abuse and revenge into an instrument of law and order.

X. Justice system

142. The overcrowding in Rwanda's prisons is due primarily to the slowness of the justice system in processing cases and completing trials. But the justice

system itself is overwhelmed by the number of people in prison. This is another vicious circle.

143. The proposal to establish the *gacaca* system of community justice, which is discussed below, will ease some of the pressure. This is because the *gacaca* system will process three of the four categories of genocide suspects established by the 1996 Basic Law on genocide, leaving only the first category to be prosecuted under conventional justice (these are persons who planned or incited genocide, committed acts of premeditated murder or acts of sexual torture). This would still leave the conventional justice system with a huge workload. There is no precise figure, but the Special Representative heard estimates ranging from 5,000 to 25,000. In fact, for the justice system as a whole, it is thought that the number of cases to be generated by confessions and denunciations n the *gacaca* jurisdictions will push the caseload up to as many as 200,000, or even 500,000, but it is not clear how any of these figures have been arrived at. In any case, it is clear that Rwanda's judiciary will be under pressure for years to come.

Genocide trials

144. By 30 November 1999, 2,406 persons had been tried before a special genocide court, out of the 121,500 in detention. Of these, 348 (14.4 per cent) were condemned to death, 30.3 per cent to life imprisonment, 34 per cent to jail terms of between 1 and 20 years, and 19 per cent were acquitted.

145. There is much to applaud in this process. Trials are closely monitored and found to conform with international standards. The Danish Centre for Human Rights has trained Rwandan judicial defenders, and defence lawyers are provided by *Avocats sans frontières*. This has pushed up the rate of acquittal. The rate of death sentences continues to decline. Furthermore, according to the Chief of Mission of *Avocats sans frontières*, the organization had recorded 1,157 persons tried during 1999, including 1,051 persons at first instance level.[31] This one-year total amounts to nearly half of the total number of persons tried from the beginning to 30 November 1999. The figures suggest considerable acceleration of the pace of trials in 1999, which the ASF report explains as resulting from the initiative of group trials.

146. But the rate of processing *génocidaires* is still very slow given the numbers detained. Under the Rwandan Penal Code, a suspect is supposed to be served with a writ within 48 hours of arrest and appear before a judge within five days. These safeguards were suspended for genocide suspects in 1996. The suspension was extended in 1998, and again extended for another 18 months on 31 December last year. This was regrettable, but there was no real alternative. By September 1999, an estimated 40,000 prisoners were still without files, let alone having appeared before a judge. The authorities made a big push to meet the end-of-year deadline, but the hearings became so curtailed as to become a formality, instead of a legal safeguard. Faced with a choice between a mass release that would have provoked a backlash and been a meaningless exercise, the authorities decided to extend the emergency regulations. It should be noted, as indicated above, that according to the Director of the Gitarama Central Prison many of the case files had not been sent to the prison and were presumed to be still with the Prosecutor's Office. Needless to say, he was unable to say how many such cases there were.

147. In any event, it is crucial for Rwanda's reputation that the emergency regulations do not become permanent. Indeed, the sooner they can be lifted, the better for the rule of law in Rwanda. The Special Representative applauds the National Human Rights Commission for pressing this issue with the Transitional National Assembly as part of its monitoring of the judicial process.

Confessions

148. Another casualty of the paralysis in the justice system is the very small number of confessions that have resulted in a lessening of sentence. This is a warning for *gacaca*, which will rely heavily on confessions. The 1996 law on the prosecution of the crime of genocide provides a range of possibilities for those who confess. If implemented, these provisions would undoubtedly help to reduce overcrowding in the prisons.

149. According to the Minister of Justice, over 15,000 people have confessed. The Special Representative was himself told by prisoners in the Kigali prison that 964 inmates (out of 8,549) were prepared to confess. Yet, according to the Citizen's Network, which is helping the Government to process confessions, only 65

confessions had been acted upon by March 1999, so slow and cumbersome is the process of hearing and review. The reason is that to qualify for leniency, a prisoner has to name accomplices, each of whom has to be investigated. As a result, this supposed "fast track" may even add to the workload. Furthermore, both the officials and the detainees who had confessed at the Gitarama Prison were emphatic that progress of these cases was blocked by the prospect of *gacaca*.

150. The Ministry of Justice and the prosecutors are stretched to the full by preparations for *gacaca*, but the Special Representative is concerned that the confession process, a potentially very useful initiative, is being allowed to wither. Clearly, confessions have a role in a comprehensive solution.

Blockages in the justice system

151. The Special Representative would like to commend international non-governmental organizations such as Citizen's Network, and donor Governments that are helping to rebuild Rwanda's justice system. Danish Legal Aid is furnishing prosecutors' offices (*parquets*) with essential support (including transport), training judges, and working with judicial police inspectors. *Avocats sans frontières* is training lawyers to take on the deeply unpopular cases of suspected *génocidaires* and also representing the victims. Thanks to such efforts, the number of magistrates has risen to 104 and the country has 55 lawyers (of whom about half are engaged in genocide trials, according to ASF) and 87 judicial defenders who can argue cases in court. Judges are increasingly determined to render judgements which are in full conformity with legal standards and they are to be applauded for their courage in taking sometimes very difficult decisions. But there remain tremendous obstacles at all levels, from the Supreme Court down to the judicial police inspectors who carry out investigations and prepare files. The Special Representative's mission met one judicial police inspector in Nyabisindu who had no means of transport — not even a bicycle — with which to prepare 152 files. Witnesses have to come to him.

152. Once again, it is important that donors see the challenge in its entirety and avoid focusing simply on aspects like the rights of the defence, even if this may be important in their own aid guidelines. Rwanda's Chief Prosecutor is drawing up an inventory of the needs of the *parquets*. The Special Representative urges donors to assist.

Military justice

153. Military justice also tends to attract little attention from traditional aid donors. Yet it, too, must be part of any comprehensive solution. The Special Representative has met several times with the Chief Military Prosecutor, and is gratified by the goals of this institution's mission statement: the promotion of justice; the defence and promotion of human rights; the eradication of impunity; promotion and maintenance of discipline in the military; sensitization/teaching of the military about the law; reform and reintegration of convicts; and dissemination of information about military justice to the public.[32] The Chief Military Prosecutor repeatedly emphasized these goals again in his meeting in June with the Special Representative and his team.

154. Last year the Prosecutor brought 506 cases before military courts; 345 resulted in prison terms. Most concerned common crimes, but the Prosecutor assured the Special Representative's mission that he remained vigilant to the protection of human rights. In general, he said, discipline was good in the Rwandan armed forces. He noted that 5,000 ex-FAR had been integrated into the army, without any problem. He emphasized that there was no longer a culture of impunity in the RPA as everyone knew what the consequences of violation would be. He also indicated that field monitoring was carried out, including in the Democratic Republic of the Congo, and that once a case had been reported, it was brought to the attention of the military Directorate and the suspects were brought in for prosecution.

155. The Prosecutor has held seminars for officers on the promotion of humanitarian law and human rights with the help of ICRC. He would like to hold more, but is constrained by a lack of funds. His office also publishes a monthly bulletin, *Military Justice Gazette*, six issues of which had appeared by June 2000 with all articles in three languages (Kinyarwanda, French, and English), with financial assistance from the Government of the United Kingdom. These important initiatives help to ensure the accountability of the armed forces, and also keep Rwandans informed. They deserve the support of the international community.

and could provide another opportunity for the National Human Rights Commission.[33]

XI. *Gacaca*

156. Efforts to improve justice in Rwanda will enter a decisive new phase in the next few months, with the introduction of a radical new system of community justice for genocide suspects known as *gacaca*.

157. *Gacaca* is traditional justice, and it has long been mentioned as a component of any solution to the problems of detention, reconciliation and impunity. But it is only in the last year that it has gone from being an idea to a government policy. The fourth draft of the *gacaca* law is now to be taken up by the Transitional National Assembly following its consideration by the *Conseil national de la magistrature*. Trials are expected to start before the end of 2000, but that may be optimistic.

158. The sense of urgency comes partly from the determination of the Government, particularly the Minister of Justice, who has spearheaded the campaign throughout the country, and partly from the fact that there appears to be no alternative. Even the survivors of genocide are coming around. They have reservations about any proposal that could free guilty genocide perpetrators. But it has become increasingly likely that the only alternative would be an amnesty, which would be unacceptable at present.

159. The Special Representative applauds the boldness of the *gacaca* proposal. Time and time again he was told that "justice as it is practised in the West is not working. We need to find an alternative". At the same time, he would point out, as many others have done, that the *gacaca* plan is a major gamble. Furthermore, any Western country of Rwanda's size faced with a caseload of these proportions would have enormous problems as well. If successful, *gacaca* could break the deadlock. Equally, it could create an entirely new set of problems, as indicated above. It is up to the Government, and its international partners, to minimize the risks.

160. *Gacaca* justice will be administered at three different levels of society, starting in the communities themselves at the level of the cells. Here, 180,000 judges will be elected by cell assemblies comprising everyone over the age of 18. As well as passing judgement, they will also have the important task of allocating categories to prisoners. Thirty thousand *gacaca* judges will be chosen at the level of the sectors, and 2,000 at the level of the communes.

161. The law on *gacaca* will cover the remaining three categories of genocide suspects not covered by conventional justice: persons who committed murder at the order of others; those who caused physical injury and rape acting on orders; and those who destroyed property. The total number affected could amount to 100,000, with as many as 80 per cent in the first category.

162. Trials will take place in public before the entire community. Drawing on the recollections of the accused, the complainant(s) and the villagers, the judges will compile a list of those who died in the genocide, and of those presumed responsible. The accused will then be judged and sentenced. The innocent will be released and the guilty punished in accordance with the severity of their crimes.

163. In deciding penalties, the judges will take into account time already served. Those who confess will benefit from a reduced sentence. Convicts will also be allowed to perform community service as part of the sentence. Those convicted of crimes against property will be expected to pay restitution for the damage they caused. If, as is likely, they lack the means, they too will perform community service. The entire *gacaca* process will come under a newly created Department of the Supreme Court, the Chief of which, the former Secretary-General of the Ministry of Justice, has already been appointed.

164. The Special Representative wants to underline the unprecedented nature of this experiment. Traditional justice is widely practised in Africa, but never on this scale and for crimes of this magnitude. Precisely because of this, the draft law attempts to ensure due legal process even while it seeks a "Rwandan solution". Together with the accelerated timetable, this has provoked considerable debate and even controversy, especially about the failure to provide for any professional defence for the accused, the expected lack of or insufficient training of the judges, the statutory disqualification of most of the literate and influential members of the communities by virtue of their professional position, the consequently greater potential susceptibility of the judges to outside pressures, the risk of the mob syndrome, and even the potentially excessive weight granted to the dossiers

from the *parquets* in the absence of professional defenders.

165. In the first place, *gacaca* means different things to different people. Some see it as a way to ease overcrowding in the jails, some as a tool of reconciliation, some as a way of establishing the facts of genocide, and some as a way of punishing the guilty. This last raises the possibility that *gacaca* may increase the prison population because it can be safely assumed that many more suspects will be identified by the accused in the course of public trials. The hope must be that any new arrests will be more than offset by the release of those who are found innocent or have already served out their time, as well as by the acceleration of the process.

166. The logistical challenge promises to be daunting. Prisoners are already being moved around the country, so as to put them near the community where they will be tried under *gacaca*. This has resulted in more overcrowding in some jails such as in Gisenyi and a serious deterioration of living conditions, so much so that ICRC fears a rise in the death rate.

167. It is not clear where prisoners will stay during the *gacaca* trials. In principle, it will be in the communities as part of the process of reconciliation. But many *cachots* are already overcrowded. Nor is it clear whether communities will be able to organize community service projects on such a vast scale. Certainly, this is unlikely without support from donors.

168. The most widely voiced concern is that due legal process will be compromised and the rights of the defendants ignored. Under the latest draft of the law all those accused would be able to appeal to the next level (cell to sector, sector to commune, commune to prefecture). Those who maintain their innocence will be allowed to mount a defence, but they will not be able to call on a lawyer. Some fear that this could be another case of justice denied — less abusive than long periods of detention without trial, but abusive nonetheless. Other concerns have also been expressed. Will judges at the cell level, with minimal education, be qualified to take these decisions? How can an acceptable trial be ensured — and will the public nature of the event not lead to intimidation? How can women victims be convinced to give evidence in public about sensitive subjects like rape?

169. Weighing these questions, some international human rights groups and even government agencies feel that *gacaca* could be inconsistent with international standards, and that a way must be found to ensure that a defendant does not stand alone before his accusers. Supporters of *gacaca* respond that it is not an adversarial system. Rather, it is a process of community decision-making.

170. The Special Representative wishes to state clearly that he supports the principle of *gacaca*, and applauds the Government's determination to engage ordinary Rwandans in this bold endeavour. Acceptance is growing in the most unlikely of places. During a visit to Kigali jail the Special Representative found that the entire prison population was meeting every day to prepare for *gacaca*. Overseen by a committee of 12 prisoners selected by the authorities, the prison population was divided according to the cells in which they had lived during the massacres of 1994. During the morning one cell had drawn up a list of 113 deceased victims and 20 killers, 17 of whom were already in prison, while 3 were still at liberty. A similar initiative was found to have taken place at the Gitara Central Prison as well.

171. The fact is that *gacaca* will happen, with or without international support. Rwandans bring an impressive determination to tasks on which they set their minds as witnessed by the feat of electing nearly 160,000 local committee members in the March elections.

172. The question facing Rwanda's international partners is relatively simple: Do they grasp the nettle and participate, on the grounds that anything is preferable to the abuse in prisons, or do they hold firm to established legal principles and stay aloof, thus increasing the likelihood that *gacaca* will fail?

173. It is not the Special Representative's task to make this difficult decision. But he would argue strongly that much can and should be done to minimize the risks. Many of the logistical problems will have to be worked out along the way, and it would greatly reassure donors if the Rwandan authorities were to launch *gacaca* in a gradual manner in a limited number of locations so as to be able to take appropriate corrective measures. Kibungo was suggested as one prefecture where the *cachots* are largely empty. It might also be helpful to test the programme in communes with proportionally different ethnic compositions, though the idea might be considered politically incorrect under current thinking. Monitoring by Rwandan human rights groups is also

critically important. Several of them and the NHRC are already gearing up to do just that, but of course they all need resources that they do not have yet. Public discussion is also the best way of ensuring that *gacaca* turns into an instrument of reconciliation, rather than revenge.

174. Some donors are already committed. The United States has committed $2.7 million to an awareness campaign, which will include producing a newsletter on the trials for magistrates. But most of the other donors appear to be desperately seeking guidance. The Special Representative would suggest that, at the very minimum, they create a liaison unit, perhaps placed within an international NGO, that can act as intermediary with the authorities and develop projects on community service, on which there exists considerable international expertise.

175. There is much else that could be done. Women's groups could draw on their experience from the Balkans and ensure that *gacaca* testimony is taken from victims of rape in a sensitive manner. The International Criminal Tribunal could offer its expertise on witness protection and other legal issues, helping to offset the widespread impression that it is only interested in Rwanda as a source of information for its own Arusha process.

176. Such measures may not satisfy those who insist on clear-cut guarantees before *gacaca* begins, but they might help to alleviate fears and provide some cushion against abuse. The Special Representative is concerned that the doubts of donors will become self-fulfilling. He is also convinced that international support for *gacaca* must be coordinated, instead of piecemeal, and discussed in the context of justice as a whole. Such a discussion should start at the level of donors. As with the crisis in prisons, it requires political will and political direction.

XII. International Criminal Tribunal

177. The International Criminal Tribunal for Rwanda, based at Arusha, United Republic of Tanzania, has administered a parallel system of justice since its establishment in 1994. As of 31 December 1999, 48 individuals had been indicted. Thirty-eight were in custody, including one detained in Texas, United States of America. Six have been tried and sentenced. Ten were accused, but are at large.

178. Relations between the Government of Rwanda and the Tribunal were severely strained by the November 1999 decision of the Tribunal's Appeals Chamber in Arusha to dismiss the indictment against Jean-Bosco Barayagwiza, a founding member of the notorious Radio Milles Collines, which incited Rwandans to genocide in 1994. The Appeals Chamber dismissed the indictment with prejudice to the Prosecutor on the ground of the violation of the statutory time limit for bringing the suspect to trial, which effectively barred any future criminal proceedings by the Tribunal. The prosecution asked for a stay of execution, and submitted new evidence. The case was taken up again by the Appeals Chamber on 15 February and the decision was reversed. This enabled relations between the Government and the International Tribunal to be repaired.

179. The opposite outcome could have affected not just the credibility of the Tribunal but its future existence. Rwandans have always found the Tribunal's results hard to justify when set against its resources, and the decision to release Mr. Barayagwiza on what is perceived as a technicality provoked a wave of anger. The Government announced that it was suspending cooperation. This paralysed the Tribunal's investigations, since almost all of its evidence and witnesses come from Rwanda. Survivors' groups protested angrily.

180. The Special Representative understands the anger, but he would also recall that the Tribunal's credibility depends on due process and the independence of its appeals process. One expert suggested that in its *Barayagwiza* decision, the Appeals Chamber was trying to put a stop to the practice of arresting suspects before there is sufficient evidence to make the case. While this may be understandable, given the ease with which suspects move from country to country, it can also lead to unacceptable delays. Mr. Barayagwiza was detained in Cameroon on 27 March 1996 but transferred to Arusha 20 months later, on 19 November 1997. He was only told of the charge against him on his arrival in Arusha. Ninety-six days then passed before he appeared before a judge, six days longer than permitted under the Tribunal's own rules. This sequence of events certainly makes it harder to argue that Rwanda should speed up its legal process.

181. The gravity of this crisis overshadowed the Tribunal's achievements. It has indicted or arrested most members of the interim Government that planned

the genocide in 1994. Investigators have established that the 1994 genocide was a carefully planned conspiracy that was prepared in advance and discussed with all the country's prefects at a meeting in Kigali in April 1994. It is notable that the importation of machetes and other weapons of mass murder rose dramatically in 1994. During a meeting in August, the Tribunal's Deputy Prosecutor said that the Tribunal had prepared an unofficial list of some 500 persons, 200 of whom are known to be in Europe.

182. Even so, the international community still needs to reassure the Rwandans that the Tribunal is as committed to justice and to the victims of genocide as it is to the rights of accused *génocidaires*.

183. The Special Representative's delegation was told in January that while the Deputy Prosecutor is liked and respected in Kigali (where he is based) his office offers very little practical assistance to Rwanda. It was suggested that the Tribunal should open some of its own files to Rwandans and make some of its formidable legal expertise available to help resolve Rwanda's judicial impasse. It would also help if the assets of convicted *génocidaires* could be blocked, although in its replies to the Amnesty International and Human Rights Watch reports, the Government of Rwanda itself claims in its own defence that it does not prevent the families of even convicted *génocidaires* from recovering their property upon returning to Rwanda.

184. Crimes of sexual violence might be one possible area of cooperation. As noted earlier, the Rwandan courts will soon receive very large numbers of such cases. The Tribunal has secured several precedent-setting convictions for sexual violence and even set up a special unit in Kigali. Extending cooperation to the Rwandans could help to restore the Tribunal's image and advance the cause of justice.

185. As for Governments, cooperating with the Tribunal is the easiest way to make amends for not having prevented genocide in 1994. The Special Representative has been made aware of the reticence of certain Governments, in various parts of the world, to hand suspected *génocidaires* over to the International Criminal Tribunal. He strongly urges these Governments to enact legislation to cooperate with the Tribunal and investigate suspects on their own territory.

186. Looking further ahead, a place will have to be found where those convicted in Arusha can serve out their prison terms. The Tribunal only provides temporary detention for those on trial. The Security Council has asked Governments to assist, and the Special Representative applauds Mali, Benin and Madagascar for responding positively. The speedy removal of convicted *génocidaires* from Arusha would be a reassuring sign of African solidarity in the face of genocide, especially in light of criticism of their comparatively luxurious living arrangements in the detention facility there.

XIII. Reconciliation: National Unity and Reconciliation Commission

187. After five years of refusing to talk of reconciliation until justice is seen to be done, Rwandans have accepted that reconciliation must be a national goal in its own right. This is a measure of the country's new confidence, and it deserves recognition from the international community.

188. To help with this daunting task, the Government established the National Unity and Reconciliation Commission (NURC), which quickly made its mark under its energetic Executive Secretary. As she explained in wide-ranging discussions with the Special Representative, the Commission's first aim is to expunge the divisiveness of ethnicity from Rwandan life. With this in mind, NURC has carried out a nationwide process of consultation, the result of which was to be published.

189. This started with listening. As the Executive Secretary herself acknowledged, reconciliation cannot be imposed. Indeed, Rwandans have long been working out their own solutions. "Old caseload" refugees who fled in 1959 and returned in 1994, mostly Tutsis, have found accommodation with "new caseload" refugees, who fled in 1994 and returned in 1996 and who are mostly Hutu. Returning refugees who found their homes occupied, sometimes by powerful local figures, often consented to live in the same house with these occupants. Sometimes victims had no other option but to live next to suspected killers.

190. This day-to-day drama has produced tensions, but also triumphs. One remarkable example encountered by the Special Representative's mission was the women's organization COCOF (Women's Consultative

Committee) in the prefecture of Gitarama, referred to above. COCOF comprises 95 separate associations. Sixty per cent of its 2,055 members are widows of genocide victims. The rest are married to suspected killers, who are now in prison. Yet both groups till the fields together, prepare food for the wives to take to the husbands in jail, and stood together for election during the March local elections. Reconciliation of this kind is a lesson for the whole world. It belies the image of Rwanda as a country riven by ethnic hatred.

191. Groups like COCOF show that practical solutions of reconciliation should also be entrusted to communities. As an example, the Executive Secretary noted that the number of orphanages in Rwanda had been reduced by two thirds, as orphans of the genocide found foster homes. Financial incentives are given to Hutu families who foster a Tutsi orphan, and vice versa.

192. As with NHRC, NURC is focusing on establishing a strong institutional foundation. This requires resources and staff. NURC has a budget from the Government but at the time of writing it had received limited financial support from donors. The last year has been a very active period for the Commission. Besides completing the nationwide consultations, it has embarked on a large number of other activities. It has produced promotional material; organized reconciliation workshops and taken over the running of the solidarity camps, including leadership training, reintegration of returnees, especially demobilized soldiers, development of youth programmes; and supported initiatives of other partners, including the Catholic Church and other Churches. It has organized many conferences and seminars at the national and local levels and in schools, and a nationwide art expressions competition on the theme of unity and reconciliation at the end of 1999. It has promoted cooperation (*jumelage*) between communes, established regional offices with two regional officers in each of the prefectures, formed partnerships with government departments, United Nations agencies and other institutions of the international community. It has organized visits to Rwandese communities abroad and is planning a yearly National Summit with international participation, the first of which is to be held in September 2000.

193. Its plan for the second year is the following: to build more effective grass-roots exercises in civic education, conflict mediation, monitoring and local initiatives; constructing and equipping a National Peace and Reconciliation Education Centre; strengthening the spirit for open discussion and debate at the grass-roots level; renovating the conference facilities at its Kigali headquarters; promoting practical reconciliation activities among communities; developing a professional media campaign promoting reconciliation; and organizing the second National Summit.

194. The Executive Secretary of NURC also directly approached the High Commissioner for Human Rights in March this year. With the expert cooperation of the consultant seconded by the Uganda Commission on Human Rights and by OHCHR, who accompanied the Special Representative during his last visit in June, a project proposal support to NURC has now been submitted for approval to OHCHR in Geneva.

195. The Special Representative therefore urges the High Commissioner for Human Rights and members of the international community and partners of Rwanda to extend their full support, both financial and technical, to NURC. He applauds the initiative of the Government of Germany to make a technical adviser available to NURC. This will certainly make it easier to develop projects. WFP, UNHCR and the Government of Italy have helped with the grass-roots consultation. One remarkable development in cooperation is the decision of the Government of Australia, through its High Commission in Nairobi, to help finance the first National Summit in September 2000. UNDP has also obtained funds from the Government of Switzerland to support a project for the formulation of medium- and long-term programmes, an action plan and an implementation strategy, similar to the one for the National Human Rights Commission.

XIV. Helping survivors

196. There is a strong moral and practical argument for helping the survivors of genocide in Rwanda. Morally, they should be among the first beneficiaries of any international assistance. Politically, their support and cooperation are essential for the success of crucial measures like *gacaca*. If they can be convinced, then reconciliation will work.

197. The Special Representative is distressed to report that many survivors feel abandoned by the international community. During his missions in August 1999 and

June 2000, the Special Representative and his team met with representatives of IBUKA, the influential lobbying organization of survivors. He also met with the Minister of Social Affairs, whose Ministry supports 300,000 families of genocide victims. In 1998, the Government voted to make 5 per cent of the national budget available to provide support and assistance to genocide survivors. This produced about $12 million.

198. In spite of this, there is a mood of disillusionment among survivors. The best therapy for the wounds of genocide is that justice should be seen to be done. They were angered by the first *Barayagwiza* decision in Arusha in November, and by the perception that convicted *génocidaires* live better at the Tribunal than many of their victims in Rwanda. They fear that in the rush to complete trials, their needs will not be sufficiently addressed during *gacaca*. They also feel sidelined by Rwanda's own genocide trials. Increasingly, law courts are finding on behalf of civil plaintiffs and levying large fines on those responsible, including the Rwandan State in cases involving former State officials. But neither the State nor individuals have the funds to pay and, as indicated above, the Government does not have a policy of seizing the real estate assets of suspected or convicted *génocidaires*. Although an effort is under way to collect damages from two convicted *génocidaires*, no case has produced reparations. As a result, such verdicts increasingly lack credibility and further deepen the disillusionment of survivors.

199. Donors in Kigali are increasingly inclined to consider the needs of survivors. This, combined with a worldwide move to recognize victims' rights, could produce some concrete support.

200. Some feel that payments are not the answer and indeed could even be demeaning. Certainly, as the President of IBUKA made clear, survivors are not just interested in money. They want the tone of the debate altered to specifically address their human rights. But this also needs to translate into projects. In one example, survivors are taking the lead in making sure that the genocide is remembered. Unlike South Africa and other countries which have suffered from mass violence, there has been no Truth and Reconciliation Commission as such in Rwanda. With help from the Government of the Netherlands, IBUKA has compiled the names of 59,000 victims in the prefecture of Kibuye, as well as a host of other, including statistical information about many aspects of the genocide there. It is seeking funds to do the same in other prefectures. It is a potentially very useful undertaking in terms of seeking truth, acknowledgement, and healing. The Special Representative recommends it be supported by the international community.

201. Among other donors providing practical assistance to survivors is the United States, which has funded scholarships for children to attend school. The Netherlands is also interested: the number of beneficiaries could eventually rise to 6,000.

202. The Special Representative would suggest that this growing interest extend to legal reparation. The *gacaca* law foresees the establishment of such a fund, and even the statute of the International Criminal Tribunal provides for a reparations fund for victims (even though it does not provide restitution for civil claims). The Special Representative would also suggest that a mechanism be set up to focus the efforts of donors on behalf of survivors, and that survivors be invited to thematic meetings on justice.

203. In this context, the Special Representative particularly commends the work of *Avocats sans frontières*, whose lawyers not only defend accused *génocidaires*, but also plead the cases of victims. He also supports the kind of initiative described earlier, in which prisoners are released to perform community service. These acts of penance promote reconciliation as well as the physical well-being of the prisoners. One project in Gitarama, to be funded by the German aid service GTZ, will allow prisoners to work the land belonging to the widows of their victims.

XV. Economic and social rights

Children

204. Rwanda's children suffered terribly under the genocide, and those who survived still bear the scars. But it is also time to shift the focus — to start looking beyond genocide and understand the wider needs of Rwanda's children, many of which can be viewed in terms of protection and child rights.

205. Children need protection from HIV/AIDS. According to recent studies, between 10 and 11 per cent of the Rwandan population may be infected. This affects the rights of unborn children who risk being infected by their mothers. It also creates AIDS orphans,

and leaves children as heads of household. According to UNICEF, AIDS orphans are often expelled from the house once their parents die, and the property taken over by close relatives. UNICEF would like to see a law recognizing a child's right to inherit property. UNICEF has also helped to draft a new law on foster care that provides protection and equal treatment for foster children, as well as opening the way to their eventual adoption.

206. In one pilot project, UNICEF has purchased the drug AZT and administered it to infected pregnant women. The initial results suggest that the rate of transmission can be reduced by as much as 40 per cent. The project also shows that AZT need not just be a "rich man's drug" beyond the reach of poor people.

207. Violence against girls is one area of child protection that is at the forefront of public debate in Rwanda. Sexual violence against children is widespread, including that of fostered orphans of the genocide, particularly in isolated communes, and in 1998 UNICEF helped 50 children testify before the Transitional National Assembly. The publicity shocked Rwandans, engaged women MPs, and even provoked public demonstrations. At the request of the Cabinet, the Assembly drafted a law which was passed this year. This is a good illustration of the vitality of civil society in Rwanda, the capacity to lobby and the legislature's receptiveness to public opinion.

208. Street and working children are a familiar sight in Kigali. UNICEF studies suggest that as many as 80 per cent of them are not orphans, but have been sent out by their impoverished parents to beg. In theory, this could make their rehabilitation easier. But any work on behalf of street children has to battle with a highly negative public attitude. There is little concern for the violence and abuse suffered by the street children, and few protests when they are periodically rounded up by the police. Especially because they sometimes engage in petty theft in order to survive, there is a tendency to demonize them. UNICEF has managed to reach 778 street children by working with NGOs. But each child requires individual attention and patience. UNICEF is advocating the establishment of a national task force on children. The Special Representative fully supports this.

209. Education is another fundamental right which requires resources, and political will, if it is to be realized. The Government is committed to providing primary education for all Rwandan children by the year 2010. Yet, according to UNICEF, 400,000 children could not go to school in 1999 because of lack of facilities. And there is a huge drop-out rate, especially for girls. Only one fifth complete the six grades of primary education, and even fewer go on to secondary education. Furthermore, 35 per cent of the teachers are estimated to be underqualified. Furthermore, the children are required to study three languages in primary school (Kinyarwanda, French and English), which is difficult enough, but is made more difficult by the dire inadequacy of human and material resources. Furthermore, the Government and the donors have disagreements, e.g. on what the priorities should be between primary and tertiary education, between human resources and curriculum development, and between the number and identities of the languages to be taught at the primary level. This, too must be another component of child protection.

210. These challenges underline the link between needs, protection and rights, and underscore the value of the Convention on the Rights of the Child. Rwanda ratified the Convention in 1991. Its first report, submitted in 1993, was not considered satisfactory by the Committee on the Rights of the Child and its second report is overdue by five years. UNICEF is urging the Government to undertake this important task, but it has slipped from the list of priorities. UNICEF would also like to see vigorous action taken on several new or partially drafted laws, covering foster care and juvenile justice.

211. The Special Representative raised all these issues with the President of the Republic, the President and Bureau of the Transitional National Assembly and the Prime Minister, supporting the UNICEF proposal to create a national task force on children which would coordinate action and resources from all concerned departments and address priority issues accordingly. The reaction of all concerned was most positive and the President of the Republic is now actively and personally following this matter.

Villagization/*imidugudu*

212. In the last year, Rwanda was in the middle of a great debate on land and settlement. The Special Representative is pleased that his advice was sought on this important issue.

213. It is both understandable and prudent for the Government to be framing a national policy. Over the last five years, more than 70 per cent of all Rwandans have left their homes. UNHCR has helped to build just under 100,000 houses, but according to the Government, 370,000 families still need housing.

214. This is linked to land. Few would dispute that pressure on land was one of the root causes of the war and genocide of 1990-1994, and Rwandan land has been progressively parcelled out through the generations to the point where it is barely productive, and even the forests and national parks have come under pressure. Rwanda's population is expected to grow to 10 million by the year 2005, putting even greater pressure on land.

215. The Government argues that regrouping Rwandans in village settlements will better facilitate their access to basic services like water, education and medical care, thereby securing basic human rights. It would also make it easier to organize security for the population, particularly in the north-west. The Government's policy of resettlement has emerged directly from the insurgency in the north-west, described earlier, where 600,000 displaced persons have been grouped into villages.

216. Out of these different elements has come the ambitious policy of collective resettlements known as *imidugudu*, or villagization. The scope and ambition of *imidugudu* has alarmed many of Rwanda's important partners. On 12 July 1999 the European Union Council of Ministers urged Rwanda to ensure "careful planning, prior impact studies and pilot projects in order to avoid villagization that brings about human rights violations". This reflects the two chief concerns of donors: first, that villagization may be coercive, and second, that it could further undermine Rwanda's agricultural productivity and food security.

217. There is some evidence on both counts. In December 1998, 41 per cent of those questioned in a government survey of Gisenyi and Ruhengeri said that they wanted to remain in their own homes instead of moving to villages. As for food security, a recent survey by the Government and United Nations agencies suggests that the distance from fields is contributing to an alarming fall in food production. Only 53 per cent said they were able to farm their own land. The Special Representative is also reminded that compulsory settlement, tried elsewhere in Africa, has rarely succeeded.

218. The Special Representative visited three villages in the hope that first-hand experience would make it easier to frame the debate.

219. Karambi is the first of 19 villages planned for Gisenyi. All but two were selected by local leaders, indicating a considerable degree of local choice and participation. Karambi's 254 shelters/houses are situated on former farmland. The International Rescue Committee (IRC) has provided running water and built latrines for 200 houses, which are 10 minutes from the communal primary school and health centre. The settlers are only 500 metres from their fields, which can be easily reached. Most families are from the sector and so are living close to their original homes. The exceptions are 50 "old caseload" families who returned to Rwanda in 1994 but were forced to leave their temporary homes when the owners returned. There were no signs that their presence in Karambi was resented, and no hint of ethnic tensions.

220. There is no evident coercion in Karambi. Nor was there likely to be, given that the inhabitants were all displaced persons whose previous houses had been destroyed or who were otherwise extremely vulnerable. (No fewer than 136 heads of family were widows.) In the case of Karambi, the problem arises from a lack of resources rather than a lack of choice. All 254 houses are still made of temporary plastic sheeting, and only 5 are being built of brick. The health centre may be close — but it has no beds and almost no medicine. Karambi's settlers are regular visitors to the nutrition centre, because many of their infants are seriously underweight. Agricultural production is certainly feeble, but because settlers lack seeds and fertilizer, and most are single women.

221. The second village visited was Rutara in Kibungo prefecture. It comprises 100 houses built by UNDP on land that was previously occupied by just three houses, two of which were destroyed in the war. The third still stands. The population is mixed: 54 families are old caseload returnees, having no home. A school, market, and health centre are all close, as are fields. The main problem is water: there is a pump in the village but it is only available for settlers who make adobe bricks for latrines. Drinking water has to be purchased in the market, at a price. Coercion is not a problem in this village. All of the settlers opted to live here. In fact, the

greatest problem is posed by 50 widows and other vulnerable families who wanted to live in the village for reasons of security, but could not qualify because they were unable to contribute to the construction of a house. These families have erected makeshift houses at the rear of the village which are plainly inadequate. One widow with four children said she had access to her family's land, but production had fallen because her husband was no longer there to farm.

222. The third site visited by the Special Representative's mission, Gihinga (Umutara prefecture), was the least satisfactory of the three. It comprises 150 houses that were constructed in 1997 by a consortium of donors. There is a serious lack of services. The nearest health centre is five kilometres away, the market is even further, and water supply is intermittent. There was also evidence of coercion: 20 of the 150 families had been told to destroy their original homes and move into the new village. Asked whether they had moved voluntarily, settlers told the Special Representative's mission they had had no choice, because laws had to be obeyed.

223. The Special Representative wishes to stress that each village tells its own story. There can be no dispute that, often for security considerations, some coercion has occurred. In this connection, the Special Representative would note that as security improves in Rwanda, security seems increasingly less relevant as a justification for villages, though cases of violence related to infiltrators in recent months have caused some concern. He would also recall that the Guiding Principles on Internal Displacement require that those who are grouped together for purposes of security should be allowed to return home when the emergency is over. The Special Representative was relieved to hear from the Adviser to the President that no Rwandans will be forced into villages against their will. In recent weeks, this has begun to look more and more like formal government policy: ministers have warned that coercion will not be tolerated, and have made this clear at meetings with donors as well.

224. It is also clear that many settlers have happily taken up the offer of a new house and land, and it is the Special Representative's firm belief that if settlers were assured of proper services in advance, they would be clamouring for admission to villages. He therefore very much encourages the Government to establish a joint programme with its partners to improve services in existing villages. With respect to new villages, pilot sites could be established throughout the country, with the location left to the newly elected development councils. Services should be installed before settlers are sought. Findings of technical studies should be fully exploited for the improvement or establishment of such services and projects. Such a policy would certainly lay a firm foundation for a national policy of integrated rural development, which is essential for the well-being of the country. In fact, this is precisely the direction that events have taken in the past few months, as the discussion has apparently moved from villagization to *viabilisation* (sustainability). Although, there has not been any formal closing of the programme, the pressure has abated and the discussion has turned to how to improve the existing settlements, even though formally the programme is still alive.

XVI. Conclusions and recommendations

225. The Special Representative wishes to conclude his report on a note of optimism, by emphasizing the opportunities that face Rwanda and its partners in the donor community.

226. He also wishes to warmly welcome resolution 2000/21 on the situation of human rights in Rwanda adopted on 18 April 2000 by the Commission on Human Rights at its fifty-sixth session and the report of the OAU International Panel of Eminent Personalities submitted on 29 May 2000 to the Secretary-General of the OAU. They both underline that all institutions of Rwandan society share the obligation to inculcate in all citizens the values of unity in diversity, human rights equity, tolerance, mutual respect and appreciation of the common history of the country. They both appeal to the Government of Rwanda and to the international community to take appropriate action and provide adequate support to meet these concerns and recommendations.

Government of Rwanda

227. The Government is to be congratulated for encouraging the development of independent human rights institutions. It is the Special Representative's firm view that this will help to resolve some of the dilemmas identified in this report.

228. The broad themes in this year's report are detention, justice and reconciliation. The Special

Representative is convinced that the time is ripe for a major breakthrough on all three fronts, and he commends the efforts by the Ministry of the Interior to improve conditions and administration in prisons.

229. The Special Representative would like to recommend, in particular, the following measures:

(a) The Interior Ministry should honour its commitment to provide food and medical care to the prison detainees;

(b) The Ministry of the Interior should adopt, as a matter of urgency, a budget for food and access to medical facilities for the *cachot* detainees;

(c) The authorities should continue to prepare public opinion for more releases from prison and treat the following categories of persons as a priority: children who are without files or who are confirmed to be innocent; pregnant women; the chronically ill; and persons over 70 years of age;

(d) Every effort should be made to separate male and female prisoners and to separate adults from minors. In fact, and in accordance with international standards, minors should not be imprisoned; they should be moved to the Gitagata reformatory centre (which should, if necessary, be expanded);

(e) The Ministry of the Interior should disseminate the new prison regulations and publish a regular statistical bulletin on prisons. This would require support from donors;

(f) The Ministry of Justice should give priority to those who have confessed to participation in the genocide, in order to speed up the disposition of their cases;

(g) The Special Representative supports and applauds the boldness of the *gacaca* proposal. Launching *gacaca* trials, at first in a limited, but representative, number of locations, selected because of their different sizes and other relevant characteristics, would help to assess the practical difficulties and reassure Rwandans as well as their international partners;

(h) The Government should meet international criticism of local defence forces (LDF) by offering a clear explanation of their role, their training (which should be reinforced, including training in the basics of human rights and humanitarian law), and the chain of command. This could be undertaken in partnership with the National Human Rights Commission;

(i) Every effort should be made to enhance the independence and autonomy of NGOs in the new draft legislation being discussed at present;

(j) Concerning information, the Government should consider licensing private radio stations and permitting the operation of private Internet service providers. It should facilitate investment in these sectors through fiscal and liberal regulatory incentives. These could be developed in consultation with the media and their representative associations, including regional and other international associations.

230. The Special Representative warmly supports the UNICEF proposal that a national task force on children be established by the Government to coordinate action and resources from all concerned departments and address priority issues accordingly. In compliance with the Convention on the Rights of the Child, to which Rwanda is a party, the Government should submit its second follow-up report on its implementation of the Convention. This report is five years behind schedule.

231. The Special Representative also warmly supports the recommendation of the OAU International Panel of Eminent Personalities that a human rights curriculum with special reference to the genocide and its lessons should be introduced in all schools and that such a curriculum should include peace education, conflict resolution, human rights, child rights, and humanitarian law (recommendation 18).

232. Concerning villagization (*imidugudu*), the Special Representative welcomes the assurance that, if new village settlements are to be constructed, it will be with the full participation of voluntary inhabitants and that adequate services will be available. The Special Representative strongly recommends that the Government and the concerned agencies and donors undertake a thorough evaluation and assessment of the already established regrouped settlements to determine their viability and sustainability. Those which instead of improving the living conditions of their inhabitants are rendering their situation even more miserable, should be terminated and new and adequate facilities offered to their people.

233. As recommended by the OAU International Panel of Eminent Personalities, the Transitional National Assembly should introduce legislation prohibiting hate

propaganda and incitement to violence, and should establish an independent media authority to develop an appropriate code of conduct for media in a free and democratic society.

234. The Special Representative welcomes the contact established between the Transitional National Assembly and the Inter-Parliamentary Union and the cooperation that may result therefrom. He recommends that the Government should increase the budget for Assembly committees, including the National Unity, Reconciliation and Human Rights Committee.

Rwandan human rights groups

235. The Special Representative commends Rwanda's independent human rights groups, which are contributing to Rwanda's transition to a post-genocide society. He urges them to focus on strengthening their management and monitoring, and to work together wherever possible on sensitive assignments. The Special Representative will follow their progress with interest.

236. The Special Representative would also pay tribute to other sectors of civil society, particularly women's associations, labour unions, students, and the seven Batwa organizations. In different ways, all are demanding to be taken seriously and helping to lay the foundation for a democratic society.

237. The increasing interest by religious groups, especially the Catholic Church, in participating in debates on reconciliation is a welcome development. The Special Representative welcomes the policy of the National Unity and Reconciliation Commission to engage the Catholic Church and other Churches. This has the potential to become an important foundation stone of reconciliation in Rwanda.

National Human Rights Commission

238. The Special Representative is deeply gratified that the Commission is now operational, able to take its place at the forefront of Rwanda's human rights institutions. He particularly supports the Commission's efforts to identify priorities and present a realistic and streamlined work plan that can attract additional funding, while at the same time addressing the Commission's own internal administrative needs.

239. Following the public round table of October 1999 and subsequent discussions with international and national partners in Rwanda, many specific recommendations were suggested to NHRC. The Special Representative is pleased to report that, provided adequate resources are available, NHRC will spare no efforts to meet the objectives described below. In order to attain these objectives, NHRC should:

(a) Take advantage of the efforts of independent human rights groups and provide complementarity which makes use of its own unique assets. These include the experience of its individual commissioners, its backing from the Transitional National Assembly, and its access to Government;

(b) Carefully choose investigations, so as to contribute to an overall NHRC work plan. They should aim to respond to complaints and/or petitions, and shed light on controversial or sensitive subjects that have a clear human rights dimension. These could include representative cases of disappearances and arbitrary detention; social and economic rights (property and land); sexual violence against children and women, the right to sexual preference; villagization, and local defence forces;

(c) Work closely with the National Unity and Reconciliation Commission (NURC) to ensure complementary projects and avoid duplication;

(d) Work with Rwandan human rights groups to monitor *gacaca* trials as they pertain to human rights, the rights of defendants and those of survivors;

(e) Promote and disseminate human rights, with special attention to isolated populations; disseminate the report of the Special Representative;

(f) Develop new partnerships — with the Chief Military Prosecutor to develop human rights training for army officers; with the Ministry of the Interior to disseminate the new prison regulations and develop human rights guidelines for prison discipline; and with the Rwandan telecommunications body Rwandatel to explore possibilities for liberalizing the Internet and the airwaves;

(g) Work with UNICEF to advocate for a comprehensive programme for the protection of children that would include coordinating the preparation of Rwanda's report to the Committee on the Rights of the Child and lobbying for laws on foster care, child labour, sexual violence against children,

juvenile justice, inheritance and education; recommend, in particular, that a human rights curriculum be introduced by the Government in all levels of education in Rwanda;

(h) Press for improvements in the situation created by the suspension, for persons suspected of genocide, of the basic safeguards provided under the Rwandan Penal Code, which was introduced in 1996, extended in 1998 and extended again in December 1999 for another 18 months; press for a cancellation of the suspension;

(i) Organize workshops with national institutions and organizations representing all the sectors of civil society in Rwanda, in order to remain in close contact with the needs and concerns of civil society in Rwanda;

(j) Organize, in particular, a workshop with the Association of Rwandan Journalists to review the new press law, and support the establishment of an independent media authority to develop an appropriate press code of conduct;

(k) Serve as an intermediary between Government and human rights non-governmental organizations in discussions on the new draft law on registration of non-governmental organizations.

240. The Special Representative awaits with great interest the first annual report of the Commission which was published in Kinyarwanda in May 2000 and will be available in English and French in August 2000.

International community

241. The international community should respond effectively to the recommendation of the OAU Independent Panel of Eminent Personalities that all leaders of the genocide be brought to trial with utmost speed and that all countries either extradite accused genocide leaders they are harbouring or try them in exile on the basis of obligations imposed by the Convention on the Prevention and Punishment of the Crime of Genocide (recommendation 8).

242. In their special programmes for post-conflict societies, the International Monetary Fund, World Bank and African Development Bank should increase significantly the funds available to Rwanda in the form of grants. Such funds should target the serious problems of youth unemployment, land use and high population growth. Rwanda's onerous debt, much of it accumulated by Governments that planned and executed the genocide, should be cancelled immediately and in full (recommendations 15 and 16 of the OAU International Panel).

Bilateral donors

243. The contribution of donor Governments to Rwanda's transition is essential, and the Special Representative is particularly grateful to those donors that take the time to target assistance to small human rights projects. These require patience and commitment from individuals. At the same time, human rights assistance could be greatly improved.

244. The Special Representative urges Rwanda's donor partners to reinstate issues relating to justice and detention to the top of their lending priorities. This will require political support from Governments. The Special Representative urges donors to convene, in consultation with the Rwandan authorities, a meeting to draw up a comprehensive package of measures in support of justice reforms, improved prison administration and *gacaca* trials that would reflect the interdependent nature of these components. Specific tasks could then be allocated to donors, depending on their own lending criteria.

245. Such a package of support should be developed in Rwanda with the Government and civil society, and on the basis of commonly agreed benchmarks. In this regard the Special Representative would commend the memorandum of understanding that was signed on 12 April 1999 by the Secretary of State for International Development of the United Kingdom and the Vice-President of Rwanda. It contains clear goals, developed through partnership, and could well serve as a good basis for similar understandings.

246. Among the components of a package of support could be:

(a) Donors should develop practical links with the Rwandan Ministry of the Interior and support the Ministry's efforts to expand the Gishari police training centre to accommodate prison guards. They should support projects of non-governmental organizations that are linked to prison releases in communes and pay regular visits to detention centres.

(b) Donors should support the creation of a liaison office on *gacaca* under the umbrella of a non-governmental organization, to serve as a link with the Government, civil society and the Supreme Court; support community service in a selected number of communes; support monitoring of *gacaca* trials by Rwandan civil society;

(c) Donors should improve the effectiveness of their assistance to Rwandan human rights groups by extending the duration of projects and building in more costs for overheads and salaries. European Union aid should also be speeded up;

(d) Donors should continue the constructive dialogue already begun with the Rwandan National Human Rights Commission and with the National Unity and Reconciliation Commission, and assist them to conduct an inventory of human rights and reconciliation initiatives, with a view to identifying gaps; ensure that the Commissions are provided with technical assistance and adequate resources, in particular through the group of "Friends of the Commissions" established in Kigali;

(e) Donors should fully support, financially and technically, the National Unity, Reconciliation and Human Rights Committee of the Transitional National Assembly;

(f) Donors should fully support, financially and technically, the efforts of the Government to ensure the consensual nature and viability of *imidugudu*.

247. The Special Representative further recommends that an appropriate mechanism be set up in Kigali to focus the efforts of donors on behalf of survivors. Among survivors, the special needs of women should take priority.

International community: international non-governmental organizations

248. The Special Representative wishes to express his deep appreciation to the international non-governmental organizations that have supported Rwanda since 1994. Many have been mentioned by name in this report. They can take comfort from the fact that their efforts are definitely bearing fruit. This is evident from the solid improvements in the justice system, in prison conditions, and in the growing confidence of Rwandan civil society.

249. International non-governmental organizations have unique assets in the form of international membership, links to donors, access to the United Nations system, and advocacy skills. These can be exceptionally valuable to Rwandan counterparts. The Special Representative can also imagine many new interventions. For example, international women's organizations might assist the victims of rape who will be called upon to testify at the *gacaca* trials. Working with Rwandan women's groups, they might also offer their expertise to the Ministry of Justice and Chief Prosecutor, who will shortly take on a greatly increased number of cases of sexual violence.

250. The Special Representative hopes that more international non-governmental organizations will find it possible to invest in a full-time presence in Rwanda. The Special Representative applauds, in this connection, Human Rights Watch and Africa Rights, the Danish Centre for Human Rights, Trocaire, *Avocats sans frontières* and Penal Reform International for their presence in Rwanda and their services to the cause of human rights and justice there.

251. The Special Representative calls upon international non-governmental organizations to pay particular attention to regional initiatives by civil society in the Great Lakes region. They could also focus on the human rights aspects of development aid. The Special Representative is assured that multilateral economic aid is more responsive today to human rights considerations than it was before the 1994 genocide. International human rights groups should hold development banks and donors to this pledge.

United Nations system

252. The Special Representative warmly commends the Secretary-General of the United Nations for having established, with the support of the Security Council, the Independent Inquiry into the Actions of the United Nations during the 1994 genocide in Rwanda. The report of the Independent Inquiry (known also as the Carlsson Report) submitted to the Secretary-General on 15 December 1999 reveals the dramatic failures of the United Nations and of the international community and contains most useful and essential conclusions/recommendations. The Special Representative would

like to underline, in particular, recommendation 13 which calls upon the international community to support efforts in Rwanda to rebuild the society after the genocide, paying particular attention to the need for reconstruction, reconciliation and respect for human rights and other groups affected by the genocide. The Special Representative would like to emphasize again that the United Nations has a crucial role to play in Rwanda's transition, and that the will exists on both sides to repair what has been a difficult relationship. This will require understanding on each side of the pressures and constraints that face the other.

United Nations High Commissioner for Human Rights

253. The Special Representative commends the High Commissioner for Human Rights for her readiness to build a new relationship with Rwanda. Both sides are feeling their way, and the Special Representative is delighted to be able to help and advise. He also hopes that the High Commissioner will be able to expand her support for the National Human Rights Commission and the National Unity and Reconciliation Commission in Rwanda. Specific requests for assistance were addressed in March and in April 2000 to the High Commissioner and carefully elaborated project proposals are now under review by her Office in Geneva.

254. The Special Representative strongly recommends that these project proposals be approved by the Office of the High Commissioner and that the High Commissioner sign cooperation and support agreements with these two Commissions before the end of the year, thereby opening a new chapter of cooperation between Rwanda and the High Commissioner for Human Rights.

Office of the United Nations High Commissioner for Refugees

255. The Special Representative urges the Office of the United Nations High Commissioner for Refugees to reinstate adequate funding for reintegrating the new returnees into Rwanda, in spite of the current focus on development, either alone or in collaboration with UNDP.

United Nations Development Programme

256. UNDP has played a central role in the coordination, funding and implementation of United Nations human rights technical assistance in Rwanda since the withdrawal of the United Nations field operation. The improved security in Rwanda, the growing confidence of the Government and the strengthening of civil society provide UNDP with a major opportunity, which calls for strengthening and upgrading UNDP's human rights capacity in Rwanda.

257. The Special Representative hopes that this opportunity will be understood and exploited. He applauded the initiative by UNDP to establish a Justice and Human Rights Unit in Kigali. He is pleased that the Office of Development and Cooperation of Switzerland is providing an initial financial grant to support the functioning of this Unit. He warmly welcomes the determination shown by the Acting Resident Representative of UNDP in Rwanda to spare no efforts to strengthen the technical and expert capacity of this Unit to enable it to meet its fascinating tasks and challenges. He very much hopes that these efforts will be fully supported by all those concerned. Among the tasks suggested for this Unit are:

(a) To prepare and circulate a written summary of donor initiatives undertaken in the justice area so as to avoid duplication between projects; to resume regular thematic meetings on justice and detention;

(b) To invite officials from the Ministry of the Interior (prisons and police) to human rights coordination meetings;

(c) To meet regularly with all Rwandan human rights non-governmental organizations and extend such meetings to women's associations, survivors, the press and media; to encourage studies and monitoring of economic and social rights, with special emphasis given to land and property;

(d) To work with the National Human Rights Commission and the National Unity and Reconciliation Commission. The Special Representative welcomes the efforts of UNDP to obtain funding for the planning activities of the two Commissions. He hopes that these funds will soon be disbursed by the donors;

(e) To disseminate international human rights instruments (including the Declaration on Human

Rights Defenders and the resolutions on the situation of human rights in Rwanda of the Commission on Human Rights and the General Assembly), the Special Representative's report, the relevant portions of the UNDP *Human Development Reports*, with a view to discussing their human rights implications.

International Criminal Tribunal

258. The Special Representative hopes that the Tribunal can move quickly to offer technical advice to Rwanda's overburdened justice system in areas such as sexual violence, where the Tribunal has unequalled expertise.

259. The Tribunal might also organize seminars, conferences, round tables and other outreach activities in Rwanda that could both instruct the public at large and the specialized communities in particular, but also enlighten all concerned about the jurisprudential basis of the Tribunal's careful approach as well as its considerable achievements in the technical field.

260. The Special Representative would also like to reiterate his strong appeal to the international community to cooperate fully with the Tribunal regarding suspected *génocidaires*, thereby also strengthening among the Rwandan society the sense that impunity is being removed and coexistence made possible.

Peace, security, economic development and the regional dimension

261. It is, of course, evident that the fundamental requirements of any human society are closely interlinked. This is particularly the case in the Great Lakes region of Africa. If there is no respect for human rights, how can economic development, peace and security prevail in the region? And if there is no peace and security, how can human rights and economic development prevail? This is why it is of the utmost importance, for Rwanda and for all the countries in the Great Lakes region, that a comprehensive regional solution is found to the present conflicts affecting them.

262. The Special Representative appeals for full respect and implementation of the Lusaka Ceasefire Agreement and warmly supports Security Council resolution 1291 (2000) of 24 February 2000 calling for a special international conference on security, peace and development for the Great Lakes region. He warmly supports the recommendation to this effect of the OAU International Panel of Eminent Personalities and he appeals to all the countries in the region, to the Organization of African Unity and to the United Nations to use all possible means to ensure that a lasting and comprehensive peace is agreed upon by all the affected countries, and that all the populations in the area are provided with durable peace and security and with appropriate means to ensure their economic development and prosperity. This is the only viable method to obtain a sustainable culture and respect of human rights in the area.

Notes

[1] *Official Records of the Economic and Social Council, 2000, Supplement No. 3* (E/2000/23), chap. II, sect. A, resolution 2000/21.

[2] It will be recalled that the mandate of the Special Representative, as stipulated in Commission resolution 1997/66 of 16 April 1997, is "to make recommendations on how to improve the human rights situation in Rwanda, to facilitate the creation and effective functioning of an independent national human rights commission in Rwanda, and further to make recommendations on situations in which technical assistance to the Government of Rwanda in the field of human rights may be appropriate."

[3] E/CN.4/2000/41, p. 7 ff.

[4] Republic of Rwanda, Ministry of Local Government and Social Affairs, *National decentralization policy*, Kigali, May 2000, p. 7.

[5] See Thomas Hategekimana, "*Evolution de la justice rwandaise en matière de genocide*", *Le Verdict, Mensuel sur les procès du genocide au Rwanda*, No. 11, February 2000, p. 12-13.

[6] See, for instance, Theoneste Muberantwali, "*Cyangugu Au cours de ce premier trimestre 2000, la Chambre specialisée auprès du Tribunal de Premiere Instance de Cyangugu a battu un record sans précedent*," No. 12, March 2000, p. 13.

[7] See "Droit à la vie," in ADL, *Le Verdict Rapport sur le monitoring des droits de la personne au Rwanda — décembre 1999 à avril 2000*, Kigali, May 2000, p. 6-22.

[8] It will be recalled that Rwanda is administratively divided and subdivided, in descending order, into prefectures, communes, sectors and cells.

[9] See Human Rights Watch, *Rwanda: The Search for Security and Human Rights Abuses*, Volume 12, Number 1 (A), April 2000, 26 pp. (http://www.hrw.org/reports/2000/rwanda/Rwan004.htm).

[10] See Amnesty International, *Rwanda: The Troubled Course of Justice*, Report AFR 47/10/00, April 2000, 30 pp. (http://www.amnesty.org/ailib/aipub/2000/AFR/14701000.htm). The author is gratified that the National Human Rights Commission (NHRC) is now in a position to serve as the country's institutional focal point for human rights. He supports the NHRC's efforts to identify realistic priorities and to cooperate with donors with a view to seeking adequate resources and additional funding.

[11] For the reply to HRW, see Republic of Rwanda, *Reply to Human Rights Watch Report — Rwanda: the Search for Security and Human Rights Abuses*, Kigali, May 2000, 31 pp. (http://www.rwandal.com/government/newsframe2.htm). For the reply to Amnesty International, see Republic of Rwanda, *Reply to Amnesty International's Report — Rwanda: The Troubled Course of Justice*, Kigali, 2000, 23 pp. (http://www.rwandal.com/government/06_11_00news_ai.htm).

[12] A government study of displaced persons in June also found that only 53 per cent of the population in the north-west had access to their own land.

[13] ADL, *Etudes sur la situation des droits humains dans les villages imidugudu*, Kigali, January 2000, para. 2.6 (e-mail: adl@rwandatel1.rwandal.com).

[14] According to a UNHCR report, there were 116,100 Rwandan refugees in the region (60,000 in the Democratic Republic of the Congo, 24,000 in the United Republic of Tanzania, 10,000 in Uganda, 7,000 in the Republic of the Congo, 4,000 in Kenya, 2,000 in Burundi, 5,000 in the Central African Republic, and 4,100 in Zambia). It was estimated that the majority of those from the Democratic Republic of the Congo would repatriate, and that those from Tanzania, the Congo and Zambia were likely to, if certain conditions were fulfilled. See UNHCR, "50th Anniversary UNHCR — the UN refugee agency: Briefing Note", 2000, p. 12.

[15] This argument was made by many interlocutors to the Special Representative and members of his team, but always in a critical or sarcastic vein. The passage from "emergency assistance and rehabilitation to sustainable development" was officially analysed in, among other documents, a recent report of the International Monetary Fund. See IMF, *Rwanda: Enhanced Structural Adjustment Facility: Economic and Financial Policy Framework Paper for 1998/99-2000/01*, 1999, pp.1-2.

[16] At present the country's administrative structure comprises 9,264 cells, 1,064 sectors, 154 communes and 12 prefectures.

[17] There are, in addition, at the sector level, Sectoral Councils (*Conseil de secteur*) composed of representatives of each cell in the sector as well as the representatives of the sector's Executive Committee. In addition, two wise persons, two women and two youths are members of the Sectoral Council. Their main responsibilities are to approve or modify decisions taken at the lower levels and take appropriate action to find solutions to current problems. Decisions at all levels are taken by consensus.

[18] *A Projet de loi instituant l'organisation des elections des dirigeants aux échelons de base au Rwanda* also provides for the election of grass-roots-level (Akagari, Umulenge, and Akarere) and municipal authorities. It would place the voting age at 18 and the age of eligibility at 21. It provides for secret ballot and requires voter registration. However, the electoral campaign would be rather strictly regulated, with the campaign starting two weeks before the start of the elections and ending 24 hours before polling starts. The campaign meetings would be prepared and directed by the electoral Commission which would apportion equal time to each candidate. The candidates should avoid negative campaigning likely to encourage sectarianism along ethnic, regional, or even political lines.

[19] See Republic of Rwanda, Ministry of Local Government and Social Affairs, "Implementation strategy for national decentralization policy", May 2000.

[20] This committee of the Transitional National Assembly should not be confused with the National Human Rights Commission.

[21] For the text of the law setting up the Constitutional Commission, see *Loi No. 23/99 du 24/12/99 portant création de la Commission chargée de l'élaboration de la Constitution et de la Révision d'autres lois*, promulgated on 24 December 1999 and published in the *Journal Officiel*, No. 1, 1 January 2000.

[22] It should be mentioned in passing that a great many of the orphans of the genocide have been adopted by relatives, sometimes by parents, including widowed women, who already have one or more surviving children of their own.

[23] See the membership list in LDGL, *Rapport sur la situation des droits de l'homme dans la région des Grands Lacs*: Burundi, RDC, Rwanda, Kigali, June 2000, p. 111 (e-mail: ldgl@rwandatel1.rwandal.com).

[24] The term "international" is used here in a loose sense to designate these organizations. Some of them might be more properly called simply "foreign", whereas most could preferably be identified as "transnational". Furthermore, the LDGL, which is discussed in this report as a "national" human rights group, should really be regarded as falling into this report's broad

"international" category or, more specifically, in the category of "subregional" NGOs.

[25] Regretfully, as PRI was in the process of changing premises during the Special Representative's most recent mission to Rwanda, it proved impossible to reach its representatives.

[26] For the latest report, see ASF, *Justice pour tous au Rwanda: Rapport annuel 1999*, Kigali, 2000, 47 pp. The ASF reports are reportedly closely read by the Rwandan Ministry of Justice and, as someone put it, "The justice system would collapse if ASF withdrew from Rwanda".

[27] Articles 2, 3 and 4 of the law stipulate that: "the Commission is independent" (art. 2); "the Commission has as an objective to investigate and follow up on human rights violations committed by anyone on the Rwandan territory, especially State organs and individuals under the cover of the State organs as well as any national organization working in Rwanda" (art. 3); "in particular, the functions of the Commission are: to sensitize and train the Rwandese population in matters of human rights; on informing relevant authorities to eventually initiate judicial proceedings in case of human rights violations by anyone" (art. 4).

[28] The law specifies that: the Chairman of the Commission would hold the rank of Minister, the other members would hold the rank of Secretary-General, and that in the exercise of their duties they are subject only to the jurisdiction of the Supreme Court. This means, according to the President of the Transitional National Assembly, that they will enjoy immunity equivalent to that of members of the Assembly.

[29] See ASF, *Justice pour tous au Rwanda*, op. cit., para. 3.6.1.

[30] Ibid., para. 3.6.2.

[31] See ibid., para. 3.1.2 for the first instance figures, which are in fact only for the ASF caseload.

[32] See also Republic of Rwanda, Ministry of Defence and National Security, Auditorat Militaire, Progressive report for 1999-2000, Kigali, 23 May 2000, p. 1.

[33] Nevertheless, charges continue to be made about alleged violations of human rights by members of the RPA, as mentioned earlier in this report together with the Government's replies. The most recent case at this writing appears in the well-balanced, meticulous, and all-round very critical report of the OAU International Panel of Eminent Personalities to investigate the 1994 Genocide in Rwanda and the Surrounding Events. The report notes, in particular, "Each year without exception until 1999-2000, almost all human rights organizations have documented such charges against the Government, which the latter, without exception, dismisses as siding with the *Interahamwe*, grossly exaggerated, or legitimate defence against ex-FAR marauding" (see "The RPF and Human Rights", chap. 22, para. 22.26). The report, however, emphasizes throughout, without excusing it, that RPF/RPA violence is almost always a response to atrocious acts by the other side and it consequently recedes when the situation is well under control.